2023-24 SESSION

SENATE
THIRD READING PACKET

SATURDAY, AUGUST 31, 2024

OFFICE OF SENATE FLOOR ANALYSES
651-1520

SENATE THIRD READING PACKET

Attached are analyses of bills on the Daily File for Saturday, August 31, 2024.

Note	Measure	Author	Location
+	SB 42	Umberg	Unfinished Business
+	SB 59	Skinner	Unfinished Business
	SB 268	Alvarado-Gil	Unfinished Business
	SB 301	Portantino	Governor's Vetoes
+	SB 399	Wahab	Unfinished Business
+	SB 549	Newman	Unfinished Business
+	SB 552	Newman	Unfinished Business
	SB 674	Gonzalez	Governor's Vetoes
+	SB 819	Eggman	Unfinished Business
	SB 892	Padilla	Unfinished Business
+	SB 1103	Menjivar	Unfinished Business
+	SB 1108	Ochoa Bogh	Unfinished Business
+	SB 1120	Becker	Unfinished Business
+	SB 1155	Hurtado	Unfinished Business
+	SB 1170	Menjivar	Unfinished Business
+	SB 1181	Glazer	Unfinished Business
+	SB 1281	Menjivar	Unfinished Business
+	SB 1283	Stern	Unfinished Business
+	SB 1286	Min	Unfinished Business
+	SB 1313	Ashby	Unfinished Business
+	SB 1419	Rubio	Unfinished Business
+	SB 1451	Ashby	Unfinished Business
+	SB 1456	Ashby	Unfinished Business
+	SCA 1	Newman	Unfinished Business
	SCA 2	Stern	Senate Bills - Third Reading File
	SCR 93	Hurtado	Senate Bills - Third Reading File
	SJR 16	Padilla	Unfinished Business
	SJR 17	Allen	Unfinished Business
+	AB 98	Juan Carrillo	Assembly Bills - Third Reading File
+	AB 180	Gabriel	Assembly Bills - Third Reading File
+	AB 218	Committee on Budget	Assembly Bills - Third Reading File
	AB 382	Cervantes	Assembly Bills - Third Reading File
	AB 863	Aguiar-Curry	Assembly Bills - Third Reading File
	AB 922	Wicks	Assembly Bills - Third Reading File
	AB 1042	Bauer-Kahan	Assembly Bills - Third Reading File
	AB 1082	Kalra	Assembly Bills - Third Reading File
	AB 1113	McCarty	Assembly Bills - Third Reading File
+	AB 1205	Bauer-Kahan	Assembly Bills - Third Reading File
	AB 1252	Wicks	Assembly Bills - Third Reading File
	AB 1465	Wicks	Assembly Bills - Third Reading File
	AB 1831	Berman	Assembly Bills - Third Reading File
	AB 1836	Bauer-Kahan	Assembly Bills - Third Reading File
	AB 1843	Rodriguez	Assembly Bills - Third Reading File
	AB 1893	Wicks	Assembly Bills - Third Reading File
	AB 2041	Bonta	Assembly Bills - Third Reading File
	AB 2095	Maienschein	Assembly Bills - Third Reading File

\+ ADDS
RA Revised Analysis
* Analysis pending

Note	Measure	Author	Location
	AB 2107	Chen	Assembly Bills - Third Reading File
	AB 2243	Wicks	Assembly Bills - Third Reading File
	AB 2250	Weber	Assembly Bills - Third Reading File
	AB 2263	Friedman	Assembly Bills - Third Reading File
+	AB 2348	Ramos	Assembly Bills - Third Reading File
	AB 2416	Connolly	Assembly Bills - Third Reading File
	AB 2441	Kalra	Assembly Bills - Third Reading File
	AB 2460	Ta	Assembly Bills - Third Reading File
	AB 2471	Jim Patterson	Assembly Bills - Third Reading File
	AB 2561	McKinnor	Assembly Bills - Third Reading File
	AB 2593	McCarty	Assembly Bills - Third Reading File
	AB 2629	Haney	Assembly Bills - Third Reading File
	AB 2716	Bryan	Assembly Bills - Third Reading File
RA	AB 2729	Joe Patterson	Assembly Bills - Third Reading File
	AB 2745	Mathis	Assembly Bills - Third Reading File
	AB 2795	Arambula	Assembly Bills - Third Reading File
	AB 2803	Valencia	Assembly Bills - Third Reading File
	AB 2851	Bonta	Assembly Bills - Third Reading File
	AB 2930	Bauer-Kahan	Assembly Bills - Third Reading File
	AB 2986	Wendy Carrillo	Assembly Bills - Third Reading File
	AB 2996	Alvarez	Assembly Bills - Third Reading File
	AB 3021	Kalra	Assembly Bills - Third Reading File
	AB 3024	Ward	Assembly Bills - Third Reading File
	AB 3129	Wood	Assembly Bills - Third Reading File
	AB 3134	Chen	Assembly Bills - Third Reading File
	AB 3138	Wilson	Assembly Bills - Third Reading File
	AB 3172	Lowenthal	Assembly Bills - Third Reading File
	AB 3211	Wicks	Assembly Bills - Third Reading File
	AB 3233	Addis	Assembly Bills - Third Reading File
	AB 3241	Pacheco	Assembly Bills - Third Reading File
	AB 3261	Mike Fong	Assembly Bills - Third Reading File
+	AB 3264	Petrie-Norris	Assembly Bills - Third Reading File
	ACR 120	Garcia	Assembly Bills - Third Reading File
	ACR 162	Petrie-Norris	Assembly Bills - Third Reading File
	ACR 191	Bonta	Assembly Bills - Third Reading File
+	ACR 210	Bennett	Assembly Bills - Third Reading File
	AJR 15	Irwin	Assembly Bills - Third Reading File

+ ADDS
RA Revised Analysis
* Analysis pending

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UNFINISHED BUSINESS

Bill No: SB 42
Author: Umberg (D)
Amended: 8/22/24
Vote: 27 - Urgency

PRIOR VOTES NOT RELEVANT

ASSEMBLY FLOOR: 75-0, 8/29/24 - See last page for vote

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

SOURCE: Author

DIGEST: This bill makes various changes to the Community, Assistance, Recovery, and Empowerment (CARE) Act, which has been implemented in at least eight counties and will be implemented by the remaining counties on or before December 1, 2024.

Assembly Amendments gutted and amended the bill as passed by the Senate.

ANALYSIS:

Existing law:

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

2) Provides that the CARE Act shall be implemented by a first cohort of counties, including Glenn, Orange, Riverside, San Diego, Stanislaus, Tuolumne, and the City and County of San Francisco, no later than October 1, 2023; and by a second cohort of counties, representing the remaining counties in the state, no later than December 1, 2024. The Department of Health Care Services (DHCS) may grant a county additional time in which to implement the CARE Act, up to December 1, 2025. (Welf. & Inst. Code, § 5970.5.)

3) Establishes criteria for a person to qualify for the CARE process, including that the person is 18 years of age or older; the person is experiencing a serious mental disorder, as defined, and has a diagnosis in the disorder class of schizophrenia spectrum and other psychotic disorders; the person is not clinically stabilized in ongoing voluntary treatment; and participation in a CARE plan or agreement would be the least restrictive alternative necessary to ensure the person's recovery and stability. (Welf. & Inst. Code, § 5972.)

4) Establishes the CARE process, which includes:

   a) The filing of a petition by a qualified person or entity. (Welf. & Inst. Code, § 5974.)

   b) Requiring a CBHA to investigate the case and file a report with the court if the petition makes a prima facie case of the respondent's eligibility. (Welf. & Inst. Code § 5977(a)(3).)

   c) Requiring, if the court determines that the respondent meets the CARE Act criteria, the court to order the CBHA and respondent to work out a CARE agreement. (Welf. & Inst. Code, §§ 5977, 5977.1.)

   d) Requiring, if the parties reach a CARE agreement, the court to order the implementation of the agreement; if the parties do not reach an agreement, then both parties may propose a CARE plan and the court may order that one of the proposed plans, as proposed or as modified, be entered. (Welf. & Inst. Code, § 5977.1)

5) Establishes the components of a CARE plan, which may include specified social services and housing assistance, and lasts for one year. (Welf. & Inst. Code, §§ 5977.1, 5982(a).)

6) Requires the court to hold a status review hearing during the duration of the CARE plan at least every 60 days, with the parties submitting information prior to the hearing as provided. (Welf. & Inst. Code, § 5977.2.)

7) Requires the court, in the 11th month of the CARE plan, to hold a one-year status hearing, which is an evidentiary hearing, to determine if the respondent graduates from the CARE plan or should be reappointed for another year; a respondent may be reappointed to the care process only once, for up to one additional year. (Welf. & Inst. Code, § 5977.3.)

8) Establishes certain protections for the CARE process, including:

a) The rights retained by a respondent, including the right to receive notice of the hearings and the court-ordered evaluation; the right to be represented by counsel at all stages of a CARE proceeding, regardless of ability to pay; the right to present evidence and call witnesses; and the right to an interpreter in all proceedings if necessary for the respondent to fully participate. (Welf. & Inst. Code, § 5976.)

b) Hearings that are presumptively closed to the public, as specified, and the requirement that a court inform the respondent of their rights at a CARE hearing. (Welf. & Inst. Code, § 5976.5.)

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

10) Provides for sanctions against a person who wrongfully files a CARE Act petition that is without merit or is intended to harass or gain an advantage over the respondent in another legal proceeding. (Welf. & Inst. Code, § 5975.1.)

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

12) Permits a court to refer an individual from assisted outpatient treatment (AOT), LPS Act conservatorship, or misdemeanor proceedings to CARE Act proceedings; the CBHA shall be designated as the petitioner in such a referral. (Welf. & Inst. Code, § 5978.)

13) Requires DHCS to collect data relating to the CARE Act implementation from CBHAs and other entities, and to coordinate with the Judicial Council to develop an annual reporting schedule for the submission of CARE Act data from the trial courts on an annual basis; and requires an independent evaluation of the effective ness of the CARE Act to be provided five years after its implementation. (Welf. & Inst. Code, § 5985, 5986.)

This bill:

1) Requires an affidavit submitted by a professional person in support of the establishment of a temporary conservatorship under the LPS Act, or by a

conservator in support of the reappointment of a conservatorship under the LPS Act, to include an attestation that all available alternatives to the conservatorship have been considered, including AOT and CARE Act proceedings, and that the appointment of a temporary conservator is recommended because no suitable alternative is available.

2) Clarifies that, in connection with a CARE Act petition, evidence that a respondent has met the minimum intensive treatment requirement may include, but is not limited to, documentary evidence from the facility in which the facility was detained or a signed declaration from the petitioner if the petitioner has personal knowledge of the detentions.

3) Provides that, in a CARE Act proceeding, a court must inform a respondent of their rights at the first hearing at which the respondent makes an appearance, and that the court need not inform the respondent of their rights at subsequent hearings if the court finds that the respondent understands and waives the additional advisement of rights.

4) Clarifies that, if the court finds that a CARE Act petition fails to make a prima facie showing that the respondent is, or may be, eligible for CARE Act proceedings, the court may dismiss the case and that the dismissal shall be without prejudice unless the court finds that the petition was filed for an improper purpose, as specified.

5) Extends the time in which a county agency must investigate the circumstances surrounding a petition filed by a person other than the county behavioral health agency and file a report with the court, from 14 court days to as soon as practicable but within 30 court days; and requires the parties to complete the investigation with appropriate urgency.

6) Provides that, beginning July 1, 2025, unless a court determines, on its own motion or on the motion of a respondent, that it would likely be detrimental to the treatment or wellbeing of the respondent, that the court shall provide ongoing notice of CARE Act proceedings to the original petitioner throughout the CARE Act proceedings, including notice of when a continuance is granted or when a case is dismissed and certain information about the reason for the continuance or dismissal; however, the notice shall not provide any patient information protected by specified state or federal laws unless the respondent consents.

7) Provides that, at a hearing on the merits of a CARE Act petition, a licensed behavioral health professional may testify as an expert concerning whether the

respondent meets the CARE Act criteria, provided that the court finds that the professional qualifies as an expert under Evidence Code section 720.

8) Clarifies that the parties may agree to, and the court may approve, amendments to a CARE agreement; and that a court may, after a hearing, approve amendments to a CARE plan upon the finding that the amendments are necessary to support the respondent in accessing appropriate services and supports.

9) Requires a court and all relevant local public agencies to cooperate to develop a comprehensive set of objectives established to improve performance of the CARE system in a vigorous and ongoing manner, and authorizes the court to coordinate and participate in meetings to improve systems performance.

10) Clarifies the scope of rules which the Judicial Council may adopt to implement the CARE Act.

11) Permits a facility, as defined, to refer an individual being involuntarily treated under the LPS Act to a county behavioral health agency if they believe the individual meets or is likely to meet the criteria for the CARE process, as specified.

12) Provides that, if a CARE Act petition has been filed pursuant to a referral from an AOT court, LPS Act conservatorship proceeding, misdemeanor proceeding, or for a respondent within a juvenile court's dependency, delinquency, or transition jurisdiction, the CARE Act court and the referring or juvenile court may communicate with each other regarding the status of the respondent's cases and any relevant court orders while both cases are pending.

    a) The courts may allow the parties to participate in the communication; all communications about the disposition of a respondent's case shall be conducted in court and on the record.

    b) Communication between courts regarding schedules, calendars, court records, and similar matters may be conducted without informing the parties and off the record; a record must be made of all other communications between the courts, and the parties must be promptly notified of the communications and given access to the record.

13) Permits a CARE plan to include, with the consent or the respondent and the entity or facility responsible for the services, additional services not otherwise specified in statute to support the recovery and stability of the respondent.

14) Requires DHCS to include, in its annual report to the Legislature regarding the implementation of the CARE Act, data regarding inter-court referrals made pursuant to 12).

15) Includes an urgency clause.

Comments

In 2022, the Legislature enacted, and the Governor signed, SB 1338 (Umberg, Ch. 319, Stats. 2022), known as the CARE Act, which is intended to deliver mental health and substance use disorder services for persons with certain severe mental illness diagnoses as an alternative to incarceration in a jail or psychiatric facility or to being subjected to a conservatorship under the LPS Act. The CARE Act provides for CARE agreements and court-ordered CARE plans for qualified persons suffering from a mental health or substance abuse disorder crisis for up to 12 months, with the potential for an extension. CARE agreements and plans are supposed to provide individuals with clinically appropriate, community-based services.

A first cohort of seven counties implemented the CARE Act on October 1, 2023, and the County of Los Angeles elected to implement the CARE Act in December 2023. The remaining counties must implement the CARE Act by December 1, 2024.

This bill amends the CARE Act and addresses concerns raised by some stakeholders in advance of the statewide implementation date. Among other things, the bill clarifies what evidence may establish a respondent's eligibility for CARE proceedings; reduces a CARE court's obligation to inform the respondent of their rights; requires a CARE petition's dismissal to be without prejudice unless specific criteria are met; and gives original petitioners the right to notice of ongoing CARE proceedings unless the court specifically finds that notice would be detrimental to the respondent.

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

According to the Assembly Appropriations Committee, this bill presents:

Costs (Trial Court Trust Fund) of an unknown amount to the courts to send the required notices. Judicial Council projects an "unknown, potentially significant impact" to the judicial branch to comply with this bill's requirements. As Judicial Council notes, only a few CARE courts are currently operational, but costs associated with administering the CARE courts, including providing the notices required by this bill, may grow as more courts begin operating and more CARE

petitions are filed in coming years. Judicial Council reports that costs are likely absorbable if the courts have the petitioner contact information needed to provide notice to qualifying petitioners electronically, rather than via mail service.

The fiscal year 2024-25 budget provides $47.4 million to the courts to implement the CARE courts.

SUPPORT: (Verified 8/30/24)

California Professional Firefighters
Families Advocating for the Seriously Mentally Ill

OPPOSITION: (Verified 8/30/24)

ACLU California Action
Cal Voices
California Youth Empowerment Network
Disability Rights California
Mental Health America of California

ARGUMENTS IN SUPPORT: According to California Professional Firefighters:

> CARE Court as established by SB 1338 (Umberg, 2022) presents an important new method for providing behavioral health treatment to the Californians who most need it but are least able to access services. Once enrolled in a CARE plan, an individual is connected with much-needed services such as behavioral health care, medication, and supportive housing services in order to assist them with recovery and achieving stability. These services are intended for those with severe schizophrenia spectrum and psychotic disorders who are unable to care for themselves or make the complex decisions needed to direct their own care.
>
> Oftentimes, the individual petitioners who began the process of having someone enrolled in CARE Court are a close friend or family member with close relationships with that person. That relationship, along with the fact that the petitioner has a legal tie to the individual in CARE, means that it is important for them to be aware of every step of the Court process and understand when a continuance is ordered or a case is dismissed. SB 42 provides clarity regarding when and to whom notifications are issued on those steps in the process, and ensures transparency and full understanding for all involved.

ARGUMENTS IN OPPOSITION: According to a coalition of the bill's opponents: Disability Rights California (DRC), Mental Health America of California (MHAC), Cal Voices, ACLU California Action (ACLU) and the California Youth Empowerment Network (CAYEN) regretfully oppose SB 42 because it makes numerous changes to CARE Court that water down due process, reinforce coercive aspects of the program and threaten to harm the very people CARE Court is supposed to help. In addition, this bill was unnecessarily rushed through the Legislature with no opportunity for meaningful feedback…

We have not yet fully analyzed this measure, but our objections include the following:

- The bill provides ongoing notice rights to nonparties, even when the respondent objects. We support a family member's involvement if the respondent consents. Forcing continued involvement of family members on respondents violates their privacy and is not conducive to recovery.

- CARE Court requires a petition to include evidence of a person's prior mental health history. SB 42 permits evidence of prior hospitalizations to consist of a petitioner's declaration from personal knowledge, with no regard for the meaning of personal knowledge in the Evidence Code, and in case law.

- SB 42 eliminates, after the first hearing, the requirement that a court advise the respondent of their rights, if the court finds the respondent understands and waives additional advisement. This provision applies even when the respondent is not assisted by counsel.

- This bill permits a facility to refer a detained individual to CARE Court and allows a county 14 business days to evaluate the individual. This clearly incentivizes referring physicians to hold the person involuntarily in a hospital in order for the county to be able to find and assess this individual. Persons may not be held involuntarily in a mental hospital unless they meet criteria set out in the Lanterman-Petris-Short Act and also in the United States Supreme Court decision in O'Connor v. Donaldson. Nothing in the bill protects involuntary patients from being detained illegally.

- SB 42 permits courts to communicate about a respondent's case when there are proceedings in more than one court, e.g., Assisted Outpatient Treatment (AOT) and CARE Court simultaneously. Respondents should not be subject to multiple and duplicative civil commitment proceedings at one time.

Communication between courts regarding multiple and duplicative proceedings seems calculated to ensure unfairness in the process.

ASSEMBLY FLOOR: 75-0, 8/29/24
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Calderon, Juan Carrillo, Wendy Carrillo, Chen, Connolly, Megan Dahle, Davies, Dixon, Essayli, Flora, Mike Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, Mathis, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, 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: Bryan, Cervantes, Ortega, Zbur

Prepared by: Allison Whitt Meredith / JUD. / (916) 651-4113
8/30/24 17:27:03

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

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UNFINISHED BUSINESS

Bill No: SB 59
Author: Skinner (D), et al.
Amended: 8/20/24
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 9-0, 3/14/23
AYES: Dodd, Alvarado-Gil, Archuleta, Ashby, Bradford, Glazer, Padilla, Portantino, Roth
NO VOTE RECORDED: Wilk, Jones, Nguyen, Ochoa Bogh, Rubio, Seyarto

SENATE HEALTH COMMITTEE: 10-1, 3/29/23
AYES: Eggman, Glazer, Gonzalez, Hurtado, Limón, Menjivar, Roth, Rubio, Wahab, Wiener
NOES: Grove
NO VOTE RECORDED: Nguyen

SENATE APPROPRIATIONS COMMITTEE: 4-0, 1/18/24
AYES: Portantino, Bradford, Wahab, Wiener
NO VOTE RECORDED: Jones, Ashby, Seyarto

SENATE FLOOR: 32-0, 1/29/24
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Hurtado, Laird, Limón, McGuire, Menjivar, Min, Newman, Padilla, Portantino, Roth, Rubio, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk
NO VOTE RECORDED: Dahle, Gonzalez, Grove, Jones, Nguyen, Niello, Ochoa Bogh, Seyarto

ASSEMBLY FLOOR: 45-13, 8/30/24 – Roll call vote not available

SUBJECT: Battery electric vehicles: bidirectional capability

SOURCE: Nuvve

The Climate Center
Union of Concerned Scientists

DIGEST: This bill authorizes the California Energy Commission (CEC) to require any class of battery electric vehicle (EV) to be capable of bidirectional charging. This bill establishes various definitions regarding bidirectional charging and authorizes the California Air Resources Board (CARB) to modify those definitions as needed.

Assembly Amendments delete the prior version of this bill and add language authorizing the CEC to establish bidirectional charging requirements for EVs.

ANALYSIS:

Existing law:

1) Defines EV grid integration as any method of altering the time, charging level, or location at which grid-connected EVs charge or discharge, in a manner that optimizes plug-in EV interaction with the electrical grid and provides benefits to ratepayers by doing any of the following:

   a) Increasing electrical grid asset utilization.
   b) Avoiding otherwise necessary distribution infrastructure upgrades.
   c) Integrating renewable energy resources.
   d) Reducing the cost of electricity supply.
   e) Offering specified electric reliability services. (Public Utilities Code §740.16)

2) Requires the California Public Utilities Commission (CPUC) to establish by December 31, 2020, strategies and metrics to maximize the use of vehicle grid integration (VGI) by January 1, 2030. Existing law specifies certain requirements for the strategies, including, but not limited to requiring ratepayer-funded EV integration activities to be in the best interests of ratepayers. (Public Utilities Code §740.16)

3) Requires electrical corporations to quantify how ratepayer-funded vehicle electrification investments support VGI strategies. Existing law also requires local publicly-owned electric utilities (POUs) to consider EV-grid integration

strategies in their integrated resource plans (IRPs) and requires community choice aggregators (CCAs) to report specified information to the CPUC regarding EV-grid integration activities. (Public Utilities Code §740.16)

4) Requires 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 zero-emission vehicles (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)

This bill:

1) Establishes various definitions related to EVs and bidirectional charging, including, but not limited to, the following:

   a) "Bidirectional-capable vehicle" means a battery EV capable of both charging and discharging electricity.

   b) "Bidirectional charging" means a charging capability that enables a battery EV to be charged by either the electrical grid or an onsite clean energy resource, and to discharge stored energy capacity through EV service equipment to either serve load or export it to the electrical grid.

   c) "Bidirectional electric vehicle service equipment" means EV service equipment capable of both charging and discharging electricity from a battery EV.

2) Authorizes CARB to modify this bill's definitions regarding bidirectional charging to align definitions with changing technologies.

3) Authorizes the CEC to require any weight class of battery EV to be bidirectional-capable if the CEC determines that there is a compelling benefit to the operator of the EV and the electrical grid.

4) Requires the CEC to consider the needs and duty cycles of vehicles used by essential service providers when determining whether a class of EVs must be bidirectional.

5) Specifies that this bill does not limit CARB's authority to establish an incentive program to support EV manufacturers' voluntary compliance with bidirectional requirements.

Background

1) *What is bidirectional charging?* Bidirectional charging is a process by which a bidirectional capable EV works with a bidirectional charger to cycle the car's battery and discharge the electrical current from the car to operate other devices that use electricity. Bidirectional charging can take many forms, including vehicle-to-vehicle charging, vehicle-to-building charging, and vehicle-to-grid charging. Federal and state agencies have recently launched projects to help better evaluate the costs and benefits associated with bidirectional charging; however, these projects have only recently started and outcomes are unclear at this time. In May 2022, Pacific Gas and Electric (PG&E) announced the creation of three pilot projects to test bidirectional charging in homes, businesses and with local microgrids in select high fire-threat areas. These pilots are intended to test EVs' ability to respond to electrical grid needs and provide backup power during a power outage. California's three largest investor-owned utilities (IOUs), the Sacramento Municipal Utility District (SMUD), the Los Angeles Department of Water (LADWP) and Power and Lancaster Energy have entered into a memorandum of understanding led by the federal Department of Energy to collaborate with other partners to identify barriers and opportunities for bidirectional charging. In March 2023, PG&E submitted an interim report with updates on the status of its bidirectional charging pilot. This interim report indicated that bidirectional charging was significantly more expensive than anticipated, with the cost for chargers and installation of those chargers substantially exceeding expected costs.

2) *Grid-level benefits of bidirectional charging in California are unclear*. This bill would allow the CEC to set requirements for certain vehicles to be capable of bidirectional charging if the CEC determines there are compelling benefits to the car's operator and the electrical grid. However, ongoing bidirectional charging pilot projects and studies have not provided clear indications that bidirectional charging will provide cost-effective grid benefits. Without sufficient alignment with utility pricing and grid conditions, bidirectional charging could increase consumers' electrical load, resulting in higher electrical bills and higher emissions associated with fossil fuel generation needed to meet that load. The use of EV batteries as distributed energy resources may be an attractive selling point for some potential EV owners; however, researchers from the Rocky Mountain Institute have indicated that more demonstrations are needed and that most grid-level benefits from VGI can be obtained without bidirectional charging.

Both the CEC and the CPUC have authorized funding for multiple pilot projects aimed at deploying and examining the electricity system benefits associated with bidirectional charging; however, limited information about the performance and outcomes of those projects is available at this time. Without sufficient information about the interactions between grid conditions and bidirectional charging, it is unclear how the CEC will evaluate which weight classes and types of vehicles provide consumer and grid benefits sufficient to justify that all vehicles of a specific class or type must be capable of bidirectional charging.

3) *Is the juice worth the squeeze?* While few vehicles on the current market offer vehicle-to-grid bidirectional charging, automakers continue to introduce models with bidirectional-capable charging. As a result, consumers wishing to purchase a bidirectional personal car or truck have an increasing number of models from which to choose. This bill would allow the CEC to require any type or weight class of vehicle to be bidirectional capable, regardless of whether most consumers purchasing those vehicles would choose to buy a bidirectional capable. Automaker associations have estimated that adding bidirectional technology to all vehicles in a certain class or type would add an additional $3,000 on average to the cost of an EV in the form of mechanical updates and warranty costs. Even without including the cost of installation and any electrical panel updates, the cost of certain bidirectional EV chargers exceeds $7,000. While some studies indicate that certain consumers may be able to use bidirectional charging to lower their electricity bills by using their car batteries as demand response assets, a consumer's ability to benefit from bidirectional charging depends on several factors, including the ability to have a direct link between the consumers' metered electricity use and the bidirectional charger. Consumers in multifamily housing may be individually metered; however, they frequently do not have access to EV charging that enables residents to use their vehicles as energy storage for their residential electricity use and observe on-bill benefits as a result. Additionally, many consumers lack access to residential charging. As a result, these consumers may experience higher costs to purchase an EV that meets bidirectional requirements while simultaneously lacking the ability to re-coup any economic advantages from those benefits.

4) *Is the CEC the appropriate agency to set vehicle manufacturing mandates?* While the CEC administers multiple programs aimed at developing and deploying clean transportation technologies, including grants for EV charger deployment, the CEC does not currently regulate EV charging or set any

requirements for vehicles. Under existing law, the California Department of Motor Vehicles (DMV) is responsible for establishing certain requirements for vehicles at the point-of-sale, and CARB is responsible for setting emissions standards for mobile sources.

This bill would substantially expand the CEC's role in vehicle manufacturing by allowing the CEC to set standards for specific technology that must be included in vehicles in California. While this bill allows the CEC to establish which vehicles must be bidirectional-capable, this bill does not give the CEC the authority to determine which vehicles must be EVs. Pursuant to its existing authority, CARB has established regulations that will determine which vehicles must transition to EVs over the next 25 years. While this bill makes CEC responsible for setting rules regarding which vehicles must be bidirectional-capable, this bill makes CARB responsible for updating definitions for what constitutes bidirectional charging. This bill is also silent on enforcement mechanism for any requirements adopted by the CEC. As a result, it is unclear whether this bill will be enforced at the point-of-sale, prior to the point-of-sale, or after the vehicle is sold. It is also unclear what penalties or remedies could be ordered in the event of a violation. While this bill does not clarify the CEC's enforcement powers over any bidirectional requirement, this bill specifies that it does not limit CARB's ability to provide incentives to manufacturers that voluntarily comply with a bidirectional requirement. It is unclear why an incentive program would be needed to incentivize compliance with the CEC's rules.

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

According to the Assembly Committee on Appropriations:

This bill will create new work for ARB, CEC and CPUC, as follows:

1) As the bill charges ARB with requiring BEVs be equipped with bidirectional charging, if it makes certain determinations, ARB will experience the greatest implementation costs. ARB estimates these costs to total approximately $1.6 million for seven positions in fiscal year (FYs) 2025-26 and 2026-27, "and beyond."

   ARB attributes the work created by this bill to (a) revising the Advanced Clean Cars (ACC) regulation to require all light-duty electric vehicles sold in California to be bi-directional capable (one air pollution specialist ($248,000)

and two air resources engineers ($464,000)); (b) amending the Medium and Heavy Duty Zero-Emission Powertrain Certification Regulation to require all battery electric schoolbuses be bidirectional capable and harmonizing the Advanced Clean Truck regulation with the rule (two air resources engineers ($464,000)); (c) developing and maintaining a database for tracking vehicle makes and models subject to the new requirement (one information technology specialist ($196,000)); (d) and related legal work (one attorney ($263,000)). ARB contends funding for these costs will likely need to come from the General Fund, as, according to ARB, its other funding sources, such as the Air Resources Control Fund, do not have capacity to absorb the costs.

ARB attributes the resources for two of the positions above to its efforts to consider the beneficial use case of mandating bidirectional charging, or roughly $464,000 in fiscal year 2025-26, at least. Presumably, if ARB determines the use case for mandating bidirectional charging is not sufficiently compelling, it will not incur the remainder of the costs listed above.

It seems reasonable that ARB anticipates ongoing costs for activities such as outreach, enforcement, legal work and information technology updates and maintenance. It is not clear, however, why the full amount of ARB's estimated implementation costs would continue indefinitely.

2) The CPUC anticipates dedicating ongoing annual costs of $239,000 to support one regulatory analyst (Public Utilities Commission Utilities Recovery Account) to support ARB in its determining whether there is a sufficiently compelling use case for requiring BEVs to be bidirectional-capable. As noted with ARB's cost estimate, it is not clear why the CPUC costs would extend indefinitely, as the work described relates wholly to ARB's consideration of the use case.

3) The CEC contends it will need no new resources to consult with ARB on consideration of the use case for BEV bidirectionality. This seems unlikely, however, or at least less than ideal, as the CEC is the state's primary energy policy body and this bill mainly affects the electric system and load management, not air quality, which is ARB's area of expertise.

According to the Legislative Analyst's Office, the General Fund faces a structural deficit in the tens of billions of dollars over the next several fiscal years.

SUPPORT: (Verified 8/27/24)

NUVVE (co-source)	Glendale City Council
The Climate Center (co-source)	Glendale Environmental Coalition
Union of Concerned Scientist (co-source)	GreenLatinos
350: Bay Area, Bay Area Action, Conejo/San Fernando	GRID Alternatives
Valley, Humboldt, San Diego, SoCal, South Bay Los	High Noon Advisors
Angeles, Southland Legislative Alliance, and Ventura	Human Impact Partners
County Climate Hub	Indivisible California
1000 Grandmothers for Future Generations	Indivisible Marin
Adopt a Charger	Indivisible South Bay LA
Alameda County Democratic Party	Kaluza
Alliance for Nurses for Healthy Environments	KLM Consulting
Alta Peak Chapter, California Native Plant Society	Legacy Solutions
Better World Group	Let's Green CA!
California Alliance of Retired Americans	Local Clean Energy Alliance
California Business Alliance for a Clean Economy	Long Beach Alliance for Clean Energy
California Climate Campaign, Greenpeace USA	Los Angeles Business Council
California Climate Voters	LA Regional Collaborative for Climate Action &
California Environmental Voters	Sustainability
California Interfaith Power & Light	Lutheran Office of Public Policy California
California Religious Action Center of Reform Judaism	Morongo Basin Conservation Association
Catholic Charities of Stockton	Move LA
Center for Biological Diversity	North Bay Electric Auto Association
Center for Community Action & Environmental Justice	Occidental Arts and Ecology Center
Center for Community Energy	Peach and Freedom Party
Center for Energy Efficiency & Renewable Energy	Peninsula Interfaith Climate Action
Technologies	Plug In America
Central California Asthma Collaborative	Queers 4 Climate
CHAdeMO Association	Récolte Energy
City of Port Hueneme	Redwood Coalition for Climate & Environmental
CivicWell	Responsibility
Clean Coalition	Restore the Delta
CleanEarth4Kids.org	Rising Sun Center for Opportunity
Climate Action California	Romero Institute
Climate Equity Policy Center	San Francisco Bay Physicians for Social Responsibility
Climate Health Now	San Jose Community Energy Advocates
Climate Resolve	Santa Barbara Standing Rock Coalition
Climate Witness Project	Santa Cruz Climate Action Network
Coalition for Clean Air	Sierra Club California
Community Environmental Council	Sunflower Alliance
Cool Davis	SunPower Corporation
Courage California	Sunrun
DCBEL	Sustainable Claremont and Rossmoor
Democrats of Rossmoor	Synergistic Solutions
Electrify Now	TerraVerde Energy
Endangered Habitats League	The Climate Reality Project, San Fernando Valley
Environment California	The Climate Reality Project, Silicon Valley Chapters
Environmental Working Group	The Phoenix Group
EV Loop	Uniting the Central Coast for Action
EV-SEg	Voices for Progress
Fridays for Future Fresno	Vote Solar
Friends Committee on Legislation of California	World Business Academy
Friends of the Eel River	Yolo Interfaith Alliance for Climate Justice

OPPOSITION: (Verified 8/27/24)

Alliance for Automotive Innovation
Motorcycle Industry Council
Recreational Off-Highway Vehicle Association
Silicon Valley Leadership Group
Specialty Vehicle Institute of America

ARGUMENTS IN SUPPORT: According to the Author:

> EV batteries are an asset that can power more than just transportation. Equipping EVs with the capability of bidirectional charging will allow those EVs to power homes or other facilities when electricity demand is at its peak and prices are high. With bidirectional charging, EVs have the potential to help power the grid and help slash energy bills for EV owners. EVs that can deploy their batteries to charge more than just the vehicle will give California the opportunity to harness EVs as mini-power plants on wheels. SB 59 furthers California as a leader in achieving grid stability with clean power sources.

ARGUMENTS IN OPPOSITION: A coalition of technology and automotive associations are opposed to this bill unless specified amendments are included. In opposition, the Silicon Valley Leadership Group states: "…SVLG must regretfully oppose SB 59 unless amended to remove the requirement that all EVs sold in the state have bidirectional-capability and instead emphasize state incentives for the creation or sale of bidirectional-capable EVs." Other stakeholders, including the Motorcycle Industry Council, are opposed to the bill unless the bill is amended to clarify that electric motorcycles and off-highway recreational vehicles are excluded from the bill's definition of a battery electric vehicle. The Alliance for Automotive Innovation is opposed to this bill unless it is amended to make CARB the agency responsible for setting bidirectional requirements for vehicle types, set deadlines for CARB to adopt bidirectional rules, and require CARB to convene stakeholders and make specified considerations when adopting bidirectional requirements. In opposition, the Alliance for Automotive Innovation states:

> While SB 59 will affect the electric system, the crux of the bill is vehicle standards which the Board has had decades of experience in implementing. We feel that the expertise the Board has gained in creating vehicle standards and the Commission's expertise in energy usage and sustainability is the

proper combination to implement the goals of this legislation…In order to have effective implementation of this type of change, the entities involved must have all the necessary information regarding actual workability and cost pressures. This is true not only for industry, but for the public who may see benefits or disadvantages from this policy.

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Prepared by: Sarah Smith / E., U. & C. / (916) 651-4107
8/30/24 17:27:04

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

Office of Senate Floor Analyses
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UNFINISHED BUSINESS

Bill No: SB 268
Author: Alvarado-Gil (R), et al.
Amended: 6/6/24
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 5-0, 4/18/23
AYES: Wahab, Ochoa Bogh, Bradford, Skinner, 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: 74-0, 8/26/24 - See last page for vote

SUBJECT: Crimes: serious and violent felonies

SOURCE: Author

DIGEST: This bill designates rape of an intoxicated person where the defendant drugged the victim with intent to commit sexual assault as a violent felony.

Assembly Amendments add coauthors.

ANALYSIS:

Existing law:

1) Defines a "strike" prior as any “serious felony” listed in Penal Code Sections 1192.7, subdivision (c) and 1192.8, and any “violent felony” listed in Penal

Code Section 667.5(c). (Pen. Code, §§ 667, subd. (d)(1) and 1170.12, subd. (b)(1).)

2) Includes the following offenses within the definition of "violent felony":

   a) Murder or voluntary manslaughter;
   b) Mayhem;
   c) Rape or spousal rape accomplished by means of force or threats of retaliation;
   d) Sodomy by force or fear of immediate bodily injury on the victim or another person;
   e) Oral copulation by force or fear of immediate bodily injury on the victim or another person;
   f) Lewd acts on a child under the age of 14 years, as defined;
   g) Any felony punishable by death or imprisonment in the state prison for life;
   h) Any felony in which the defendant inflicts great bodily injury on any person other than an accomplice, or any felony in which the defendant has used a firearm, as specified;
   i) Any robbery;
   j) Arson of a structure, forest land, or property that causes great bodily injury;
   k) Arson that causes an inhabited structure or property to burn;
   l) Sexual penetration accomplished against the victim's will by means of force, menace or fear of immediate bodily injury on the victim or another person;
   m) Attempted murder;
   n) Explosion or attempted explosion of a destructive device with the intent to commit murder;
   o) Explosion or ignition of any destructive device or any explosive which causes bodily injury to any person;
   p) Explosion of a destructive device which causes death or great bodily injury;
   q) Kidnapping;
   r) Assault with intent to commit mayhem, rape, sodomy or oral copulation;
   s) Continuous sexual abuse of a child;
   t) Carjacking, as defined;
   u) Forcible rape or penetration of genital or anal openings by a foreign object;
   v) Felony extortion;
   w) Threats to victims or witnesses, as specified;

x) First degree burglary, as defined, where it is proved that another person other than an accomplice, was present in the residence during the burglary;
y) Use of a firearm during the commission of specified crimes; and,

z) Possession, development, production, and transfers of weapons of mass destruction. (Pen. Code, § 667.5, subd. (c).)

3) Includes the following offenses within the definition of "serious felonies":

a) Murder or voluntary manslaughter;
b) Mayhem;
c) Rape;
d) Sodomy by force, violence, duress, menace, or threat or fear of bodily injury;
e) Oral copulation by force, violence, duress, menace or threat or fear of bodily injury;
f) Lewd act with child under fourteen years of age;
g) Any felony punishable by death or life imprisonment;
h) Any felony in which defendant personally inflicts great bodily injury on any person other than an accomplice or personally uses a firearm;
i) Attempted murder;
j) Assault with intent to commit rape or robbery;
k) Assault with a deadly weapon or instrument on a peace officer;
l) Assault by a life prisoner on a non-inmate;
m) Assault with a deadly weapon by an inmate;
n) Arson;
o) Exploding a destructive device or any explosive with intent to injure;
p) Exploding a destructive device or any explosive causing bodily injury, great bodily injury, or mayhem;
q) Exploding a destructive device or any explosive with intent to murder;
r) Burglary of an inhabited dwelling;
s) Robbery or bank robbery;
t) Kidnapping;
u) Holding a hostage by an inmate;
v) Attempt to commit a crime punishable by life imprisonment or death;
w) Any felony where defendant personally used a dangerous or deadly weapon;
x) Sale or furnishing heroin, cocaine, PCP, or methamphetamine to a minor;
y) Forcible penetration with a foreign object;
z) Grand theft involving a firearm;

aa) Any gang-related felony;
bb) Assault with the intent to commit mayhem or specified sex offenses;
cc) Maliciously throwing acid or flammable substances;
dd) Witness intimidation;
ee) Assault with a deadly weapon or firearm or assault on a peace officer or firefighter;
ff) Assault with a deadly weapon on a public transit employee;
gg) Criminal threats;
hh) Discharge of a firearm at an inhabited dwelling, vehicle, or aircraft;
ii) Commission of rape or sexual penetration in concert;
jj) Continuous sexual abuse of a child;
kk) Shooting from a vehicle;
ll) Any attempt to commit a "serious" felony other than assault;
mm) Any violation of the 10 years, 20 years, 25 years to life gun law;
nn) Possession or use of any weapon of mass destruction; and,
oo) Any conspiracy to commit a "serious" felony. (Pen. Code, §§ 1192.7, subd. (c).

4) Imposes a three-year sentence enhancement for each prior separate prison term served by the defendant if the prior offense was a violent felony and the new offense is a violent felony. (Pen. Code § 667.5, subd. (a).)

5) Prohibits plea bargaining in any case in which the indictment or information charges a "serious" felony unless there is insufficient evidence to prove the charge, the testimony of a material witness cannot be obtained, or a reduction or dismissal would not result in a substantial change in sentence. (Pen. Code, § 1192.7, subd. (a)(2).)

6) Provides that any person convicted of a "serious" felony who has previously been convicted of a "serious" felony receives, in addition to the sentence imposed by the court, an additional and consecutive five-year enhancement for each such prior conviction. (Pen. Code, § 667, subd. (a)(1).)

7) Provides that where a defendant is convicted of any felony with a prior conviction for a single serious or violent felony, the sentence imposed must be twice the term otherwise provided as punishment. (Pen. Code §§ 667, subd. (d)(1) and 1170.12, subd. (c)(1).)

8) Provides that a defendant, who is convicted of any current felony, with prior convictions of two or more "violent" or "serious" felonies, must receive a life sentence with a minimum term of 25 years. (Pen. Code § 667, subds. (a) and (d)(2)(i); Pen. Code § 1170.12, subd. (c)(2)(A).)'

9) Requires a defendant affected by a prior strike to be committed to state prison, and disallows diversion or probation. (Pen. Code, §§ 667, subd. (c) and 1170.12, subd. (a).)

This bill designates as a violent felony the rape of an intoxicated person where it is pleaded and proved that the defendant caused the intoxication by administering a controlled substance to the victim without their consent and with the intent to sexually assault the victim.

Background

Proposition 57. On November 8, 2016, California voters approved Proposition 57. Proposition 57 was known as the "Parole for Non-Violent Criminals and Juvenile Court Trial Requirements Initiative." The purpose of Proposition 57 was to increase rehabilitation services and decrease the prison population. It requires juvenile court judges, rather than district attorneys, to decide whether a juvenile will be prosecuted as adult. The initiative also authorized parole consideration for nonviolent felons after the inmate has served the full base term of their primary offense, exclusive of enhancements or alternative sentences. It also authorizes sentence credits for rehabilitation, good behavior, and education. (Official Voter Information Guide, Proposition 57, California General Election, Nov. 8, 2016 < http://vig.cdn.sos.ca.gov/2016/general/en/pdf/complete-vig.pdf [as of Apr. 10, 2023].)

As pertains to this bill, Proposition 57 provided:

> a) The following provisions are hereby added to enhance public safety, improve rehabilitation, and avoid the release of prisoners by federal court order, notwithstanding anything in this article or any other provision of law….
> (1) Parole consideration: Any person convicted of a *non-violent felony offense* and sentenced to state prison shall be eligible for parole consideration after completing the full term for his or her primary offense….
> (b) The Department of Corrections and Rehabilitation shall adopt regulations in furtherance of these provisions, and the Secretary of the Department of Corrections and Rehabilitation shall certify that these regulations protect and enhance public safety." (Cal. Const., art. I, § 32, emphasis added.)

Proposition 57 requires the California Department of Corrections and Rehabilitation (CDCR) to draft regulations on how the parole process will be

implemented. The initiative specifies that early parole may only be considered for persons who have committed nonviolent offenses. The initiative does not mandate release, only consideration for release by Board of Parole Hearings which is tasked with determining whether an inmate is a current threat to public safety.

CDCR's regulations specify that a person who is convicted of a violent felony is not eligible for consideration for the nonviolent parole process

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

According to the Assembly Appropriations Committee:

- Costs (General Fund) of an unknown but significant amount to the California Department of Corrections and Rehabilitation (CDCR) to incarcerate people convicted of rape of an intoxicated person for a longer periods of time, likely in the millions of dollars annually at a minimum. Estimated costs are difficult to calculate because this bill will increase periods of incarceration for people convicted of this offense in multiple ways, as discussed below.

- The Legislative Analyst's Office (LAO) estimates the average annual cost to incarcerate one person in state prison is $133,000. In 2023, CDCR admitted 23 people into prison whose primary offense was rape of an intoxicated person. For illustrative purposes, assuming each of those people must serve an additional year in prison due to the credit earning implications of this bill, the resulting cost to CDCR from reduced credit earning alone would be $3.06 million. Actual costs from reduced credit earning will be substantially higher because this estimate reflects only a subset of people convicted of this offense who are currently incarcerated in state prison. CDCR will also experience substantial future incarceration costs because this bill will significantly increase prison sentences for any person convicted of rape of an intoxicated person who is later convicted of another felony offense.

- According to the LAO, the General Fund faces a structural deficit in the tens of billions of dollars over the next several fiscal years.

SUPPORT: (Verified 8/26/24)

Arcadia Police Officers' Association
Association of Regional Center Agencies
Beverly Hills; City of
Burbank Police Officers' Association
California Association of Highway Patrolmen

California Coalition of School Safety Professionals
California District Attorneys Association
California Police Chiefs Association
California Reserve Peace Officers Association
California State Sheriffs' Association
California State Treasurer
Chief Probation Officers' of California
City of Ceres Council District 2
City of San Jose
Claremont Police Officers Association
Concerned Women for America
Corona Police Officers Association
Crime Victims Alliance
Crime Victims United of California
Culver City Police Officers' Association
Deputy Sheriffs' Association of Monterey County
Fullerton Police Officers' Association
Healthy Alternatives to Violent Environments
Live Violence Free
Los Angeles County Sheriff's Department
Los Angeles School Police Officers Association
Murrieta Police Officers' Association
Newport Beach Police Association
Novato Police Officers Association
Office of Lieutenant Governor Eleni Kounalakis
Orange County District Attorney
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
San Diegans Against Crime
San Diego Deputy District Attorneys Association
Santa Ana Police Officers Association
Upland Police Officers Association
Ventura County Office of The District Attorney

OPPOSITION: (Verified 8/26/24)

ACLU California Action
California Public Defenders Association
California Public Defenders Association
Californians United for A Responsible Budget
Ella Baker Center for Human Rights
Felony Murder Elimination Project
Initiate Justice
Initiate Justice Action
Legal Services for Prisoner With Children
San Francisco Public Defender
Vera Institute of Justice

ARGUMENTS IN SUPPORT: According to the California District Attorneys Association:

> Whether penetration is accomplished through physical aggression [force] or predatory behavior is a distinction without a difference. Both perpetrators seek prey that are 2 vulnerable - disadvantaged by his/her capacity to resist. Both perpetrators represent a danger to the community. Additionally, the aftermath suffered by an unconscious victim or a victim incapable of giving consent due to intoxication is not ameliorated by the absence of memory. Indeed, the fear and terror that accompanies the absence of memory of a known sexual assault should not be viewed as less serious than the fear and terror that a victim experiences during a recalled forcible sexual assault. Both sexual predators should be treated identically under the law.

ARGUMENTS IN OPPOSITION: According to Ella Baker Center on Human Rights:

> The voters also overwhelmingly supported Prop 57 in 2016, providing that a person would be eligible for parole after serving the base term of their sentence if the current offense were non-serious or non-violent offense, as defined. However, the regulation of Prop 57 has stated that persons with a prior serious offense, found in Penal Code 667.5, in the previous 15 years shall be considered an aggravating factor in determining risk, weighing against a parole opportunity for a current nonviolent conviction. This bill expands the number of offenses in 667.5, contributing therefore to longer sentences, worsened prison overcrowding, and wasteful spending.

ASSEMBLY FLOOR: 74-0, 8/26/24
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Calderon, Juan Carrillo, Wendy Carrillo, Chen, Connolly, Megan Dahle, Davies, Dixon, Essayli, Flora, Mike Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Lackey, Lee, Low, Lowenthal, Maienschein, Mathis, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, 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: Bonta, Bryan, Cervantes, Kalra, Ortega

Prepared by: Stella Choe / PUB. S. /
8/27/24 13:17:19

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

SENATE RULES COMMITTEE SB 301
Office of Senate Floor Analyses
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VETO

Bill No: SB 301
Author: Portantino (D) and Newman (D), et al.
Enrolled: 5/29/24
Vote: 27

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 7-0, 3/15/23
AYES: Allen, Dahle, Gonzalez, Hurtado, Menjivar, Nguyen, Skinner

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

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

SENATE FLOOR: 40-0, 5/30/23
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: 36-0, 5/28/24
AYES: Alvarado-Gil, Archuleta, Ashby, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hurtado, Jones, Laird, Limón, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Padilla, Portantino, Roth, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk
NO VOTE RECORDED: Allen, Atkins, Ochoa Bogh, Rubio

ASSEMBLY FLOOR: 70-0, 5/20/24 - See last page for vote

SUBJECT: Vehicular air pollution: Zero-Emission Aftermarket Conversion Project

SOURCE: Specialty Equipment Market Association

DIGEST: This bill requires the California Air Resources Board (CARB) to establish the Zero-Emission Aftermarket Conversion Project (ZACP) to provide an applicant with a rebate for converting a vehicle into a zero-emission vehicle (ZEV).

ANALYSIS:

Existing law:

1) Defines "zero-emission vehicle" (ZEV) as a vehicle that produces no emissions of criteria pollutants, toxic air contaminants, and greenhouse gases (GHGs). (Health and Safety Code (HSC) §44258)

2) Establishes Clean Vehicle Rebate Project (CVRP) which provides qualified applicants with a rebate for the purchase of a ZEV. (HSC §44274)

3) Establishes the Zero-Emission Assurance Project (ZAP) which provides a qualified applicant with a rebate for the replacement of a battery, fuel cell, or related component or a vehicle service contract related to these components. (HSC §44274.9)

This bill:

1) Requires CARB to, subject to an appropriation by the Legislature, provide a qualified applicant with a rebate for an eligible vehicle that has been converted into a ZEV.

2) Requires that at least 25% of the funding be allocated to individuals or households at 400% of the federal poverty line or under.

3) Requires CARB to develop guidelines for the program, define qualifying conversion-types for used vehicles, define eligible replacement motors, power systems, and parts, and establish minimum eligibility criteria for an applicant to be eligible for a rebate. The guidelines shall:

   a) Limit ZACP rebates to one per vehicle.

b) Require a visual safety inspection, developed in conjunction with the Bureau of Automotive Repair, for rebate eligibility, as well as being registered with the Department of Motor Vehicles as a ZEV.
c) Require an eligible ZEV to have a range of at least 100 miles.
d) Ensure the value of the vehicle being converted plus the cost of the conversion do not exceed the manufacturer suggested retail price (MSRP) limit established for the CVRP. As of February 24, 2022, those limits are $60,000 for minivans/pickups/SUVs and $45,000 for hatchbacks/sedans/wagons/two-seaters.
e) Apply the income limits established for the CVRP to the program established by this bill. As of February 24, 2022, those income limits are $135,000 for single filers, $175,000 for head of household filers, and $200,000 for joint filers.
f) Ensure the rebate provides cost-effective benefits to the state in reducing air pollution.

4) Defines an "eligible vehicle" as a light-duty vehicle originally propelled by a gasoline- or diesel-powered engine.

5) Caps the maximum rebate at $4,000.

6) Requires CARB to coordinate the ZACP with the enhanced fleet modernization program, the Charge Ahead California Initiative, and CVRP.

Background

1) *ZEV Climate Goals*. Transitioning California's transportation system away from gasoline to ZEVs is a fundamental part of the state's efforts to reduce GHG emissions and help meet the state's goals to reduce GHG emissions 40% below 1990 levels by 2030. Governor Newsom's Executive Order (EO) N-79-20, dated September 23, 2020, established the goal that 100% of in-state sales of new passenger cars and trucks will be zero-emission by 2035. The EO further requires that 100% of medium- and heavy-duty vehicles in the state be zero-emission by 2045 for all operations where feasible and by 2035 for drayage trucks.

   The state has tried to increase the sales of ZEVs by providing rebates to consumers through CVRP, Clean Cars 4 All Program (CC4A), and the Hybrid and Zero-Emission Truck and Bus Voucher Incentive Project (HVIP). These incentives have mainly been funded with cap-and-trade auction revenues.

Revenues from the state's cap-and-trade allowance auction, authorized under AB 32 (Núñez, Chapter 488, Statutes of 2006), and reauthorized by SB 32 (Pavley, Chapter 249, Statutes of 2016), are deposited in the Greenhouse Gas Reduction Fund and used for California Climate Investments. Roughly half of the passenger ZEVs sold in California have received incentives from these programs. Overall, the Legislature has appropriated $2.2 billion for low carbon transportation investments.

2) *What Do ZEV Conversions Cost?* An April 25, 2022, article in the *Los Angeles Times* looked at the market for converting classic cars to ZEVs. According to the article, some shops have a five-year waiting list for vehicle conversions. The cost, according to the article, "starts at around $18,000," but more expensive builds for high-performance cars can run well past $30,000.

   How long a conversion will take to complete will also vary depending on the vehicle, but during a conversion, it isn't just the engine that is being replaced. It also – in many cases – involves removing the pipes and hoses used for a combustion engine, along with the transmission, gas tank, exhaust system, and more. Plus, depending on the vehicle being converted, other modifications to the car may be necessary to accommodate the batteries.

3) *Who Approves A Conversion & How Common Are They?* According to CARB, any vehicle registered in California may be converted to a 100% electric drive, as long as all power is supplied by on-board batteries. All combustion and fuel system components must be removed prior to inspection by a Bureau of Automotive (BAR) station. The vehicle must arrive at the inspection site under its own power, and the referee must also ensure the vehicle has adequate battery storage capacity for 100% electric operation. Once the inspection is complete, the referee will sign a DMV form so the vehicle can be registered as an EV and removed from the periodic smog inspection program. It should be noted though that this examination only looks at the vehicle's emissions. There are no other exams or approvals required.

Comments

1) *Purpose of Bill.* According to the author, "This bill will bring California one step closer to accomplishing the goal of reducing greenhouse gas emissions to a level that is sustainable. With a large portion of greenhouse gas emissions coming from the transportation sector in California, it is necessary that we implement a program that encourages people to convert their vehicles to ZEVs to reduce the issues associated with Climate Change."

2) *Converting Gas-Powered Vehicles To Electric.* The bill's sponsor, the Specialty Equipment Market Association (SEMA), notes Ford last year introduced an electric crate motor (a fully assembled automobile engine shipped to the installer, originally in a crate) for $3,900 – much less than the cost of a new ZEV.

   However, the $3,900 motor cost does not include any of the other parts necessary to convert a vehicle – the control system, batteries, inverter, or many others – nor does it include the cost of labor for someone not taking this on as a do-it-yourself project. The costs of the additional parts are likely to be substantially more than the cost of the motor itself. At least one company, Electric GT, advertises "plug-and-play" kits that include all of the parts necessary to convert a car to an EV with prices ranging from $34,500-$65,000, while EV West advertises some kits in the $8,000-$18,000 range. Neither includes the cost of labor.

3) *Moving Money May Have Equity Impacts.* The new ZACP program will be funded from state or federal funding or any other clean vehicle rebate program. One such program is the Clean Cars 4 All (CC4A) program. CC4A offers up to $9,500 in incentives to low-income Californians to swap out their old cars for zero-emission or hybrid vehicles. CC4A is an equity-focused program geared at getting ZEVs into the hands of low-income Californians. While the CVRP caps income eligibility for single-filers at $135,000, CC4A caps it at 400% of the federal poverty line, or just $58,320 in 2023.

   SB 301 requires 25% of the money in the ZACP to go to households at 400% of the federal poverty line. However, whether this 25% carve-out for low-income Californians represents an increase in allocation towards equity projects or a decrease depends on how much money is coming from CC4A or other programs. If more than 25% of the money comes from CC4A, then there would be a net decrease in money allocated to low-income Californians across programs. In addition, determining whether more or less funding for ZEVs has been allocated to low-income Californians in a given year would not be easy to track since unspent funds in the ZACP can be rolled over or returned at the end of the fiscal year.

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

According to the Assembly Appropriations Committee:

1) CARB estimates ongoing annual costs of approximately $9.7 million for 46 new positions (Air Quality Improvement Fund and certification fees) to develop and implement the ZACP, develop eligibility criteria, develop and implement safeguards to prevent fraudulent activity, coordinate with other incentive programs, develop and refine calculation methodologies for emissions benefits and other project evaluation metrics, promulgate regulations to develop a new procedure to assess ZEV conversions and determine vehicle range, develop and implement a safety inspection program, create testing and certification requirements for conversion kit manufacturers and installers, and a number of other tasks.

2) Ongoing cost pressure of up to $2 million annually (General Fund or special fund) to allocate funding from CVRP, another AQIP rebate program, or another state or federal funding source, to the ZCAP.

SUPPORT: (Verified 6/18/24)

Specialty Equipment Market Association (source)
Breathe California
Maxwell Vehicles

OPPOSITION: (Verified 6/18/24)
None received

GOVERNOR'S VETO MESSAGE:

> This bill would require the California Air Resources Board (CARB) to establish the Zero-Emission Aftermarket Conversion Project (ZACP) to provide an applicant with a financial rebate for converting a gasoline- or diesel-fueled vehicle into a zero-emission vehicle (ZEV).
>
> California is showing the world what's possible - fostering innovation and creating space for an industry to flourish as the sale of ZEVs reach record highs, with over 1.8 million ZEVs now on California's roads. The state continues to invest billions of dollars in ZEV deployment and supporting infrastructure to achieve our ambitious climate and clean air goals.
>
> While I share the author's desire to further accelerate the state's transition to ZEVs, this bill creates a new program at a time when the state faces a $44.9

billion shortfall for the 2024-25 fiscal year. Additionally, there is no funding currently identified or available in the state budget to support this new program.

For these reasons, I cannot sign this bill.

ASSEMBLY FLOOR: 70-0, 5/20/24
AYES: Addis, Aguiar-Curry, Alanis, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Chen, Connolly, Davies, Dixon, Essayli, Flora, Mike Fong, Vince Fong, Friedman, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, McCarty, McKinnor, Muratsuchi, 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: Alvarez, Arambula, Bains, Cervantes, Megan Dahle, Gabriel, Holden, Mathis, Stephanie Nguyen, Luz Rivas

Prepared by: Eric Walters / E.Q. / (916) 651-4108
6/19/24 11:53:25

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

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UNFINISHED BUSINESS

Bill No: SB 399
Author: Wahab (D), et al.
Amended: 8/19/24
Vote: 21

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

SENATE JUDICIARY COMMITTEE: 9-2, 4/25/23
AYES: Umberg, Allen, Ashby, Caballero, Durazo, Laird, Min, Stern, Wiener
NOES: Wilk, Niello

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

SENATE FLOOR: 26-7, 5/25/23
AYES: Allen, Archuleta, Atkins, Becker, Blakespear, Bradford, Cortese, Durazo, Eggman, Gonzalez, Hurtado, Laird, Limón, McGuire, Menjivar, Min, Newman, Padilla, Portantino, Rubio, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener
NOES: Dahle, Jones, Nguyen, Niello, Ochoa Bogh, Seyarto, Wilk
NO VOTE RECORDED: Alvarado-Gil, Ashby, Caballero, Dodd, Glazer, Grove, Roth

ASSEMBLY FLOOR: 42-16, 8/30/24 – Roll call not available

SUBJECT: Employer communications: intimidation

SOURCE: California Federation of Labor Unions
California Teamsters Public Affairs Council

DIGEST: This bill enacts the California Worker Freedom from Employer Intimidation Act to prohibit an employer from subjecting, or threatening to subject, an employee to discharge, discrimination, retaliation because the employee declines to attend an employer-sponsored meeting or affirmatively declines to participate in, receive, or listen to any communications with the employer or its agents or representatives, the purpose of which is to communicate the employer's opinion about religious or political matters.

Assembly Amendments authorized, rather than required, the Labor Commissioner to enforce violations of these provisions. Added civil penalty amounts for violations of these provisions. Added additional employers to the list of entities exempt from these provisions.

ANALYSIS:

Existing federal law establishes the National Labor Relations Board (NLRB) as an independent federal agency vested with the power to safeguard employees' rights to organize, engage with one another to seek better working conditions, choose whether or not to have a collective bargaining representative negotiate on their behalf with their employer, or refrain from doing so. The NLRB also acts to prevent and remedy unfair labor practices committed by private sector employers and unions, as well as conducts secret-ballot elections regarding union representation. (29 U.S.C. §153)

Existing state law:

1) Prohibits employers from adopting or enforcing any rule, regulation, or policy:

    a) Forbidding or preventing employees from engaging or participating in politics or from becoming candidates for public office.
    b) Controlling or directing, or tending to control or direct the political activities or affiliations of employees.
    (Labor Code §1101)

    2) Prohibits employers from coercing, influencing, or attempting to coerce or influence employees by means of threat of discharge or loss of employment to adopt or follow, or refrain from adoption or following, any particular course or line of political action or political activity. (Labor Code §1102)

3) Establishes within the Department of Industrial Relations (DIR) and under the direction of the Labor Commissioner, the Division of Labor Standards Enforcement (DLSE) tasked with administering and enforcing labor code provisions concerning wages, hours and working conditions. (Labor Code §56)

4) Provides the Labor Commissioner with authority to be assigned claims for loss of wages that arise from retaliation for lawful conduct occurring during nonworking hours and away from the employer's premises. (Labor Code §96)

This bill:

1) Defines "employer" as any individual, partnership, association, corporation, or any agent, representative, designee, or person or group of persons acting directly or indirectly on behalf of or in the interest of an employer with the employer's consent and shall include all branches of state government, or the several counties, cities and counties, and municipalities thereof, or any other political subdivision of the state, or a school district, or any special district, or any authority, commission, or board or any other agency or instrumentality thereof.

2) Enacts the "California Worker Freedom from Employer Intimidation Act" to prohibit an employer, except as specified, from subjecting, or threatening to subject, an employee to discharge, discrimination, retaliation or any other adverse action because the employee declines to attend an employer-sponsored meeting or affirmatively declines to participate in, receive, or listen to any communications with the employer or its agents or representatives, the purpose of which is to communicate the employer's opinion about religious or political matters, as defined.

3) Specifies that an employee who is working at the time of the meeting and elects not to attend a meeting shall continue to be paid while the meeting is held.

4) Authorizes the Labor Commissioner to enforce these provisions, including by investigating an alleged violation, and ordering appropriate temporary relief to mitigate a violation or maintain the status quo pending the completion of a full investigation or hearing including the issuing of citations for violations and filing a civil action.

5) Specifies that if a citation is issued, the procedures for issuing, contesting, and enforcing judgments for citations and civil penalties issued by the Labor Commissioner shall be the same as those set out in existing Labor Code Sections 98.74 or 1197.1, as applicable.

6) Specifies that, in addition to any other remedy, an employer who violates these provisions shall be subject to a civil penalty of five hundred dollars ($500) per employee for each violation.

7) Alternatively to Labor Commissioner enforcement, an employee who has suffered a violation may bring a civil action in a court of competent jurisdiction for damages caused by that adverse action, including punitive damages.

    a) Specifies that in any such civil action, an employee or their exclusive representative may petition the superior court, as specified, for appropriate temporary or preliminary injunctive relief.

8) Provides that these provisions do not prohibit an employer from any of the following:

    a) Communicating to its employees any information that the employer is required by law to communicate, but only to the extent of that legal requirement.
    b) Communicating to its employees any information that is necessary for those employees to perform their job duties.
    c) For institutions of higher education, from meeting with or participating in any communications with its employees that are part of coursework, any symposia, or an academic program at that institution.
    d) For an employer that is a public entity, communicating to its employees any information related to a policy of the public entity or any law or regulation that the public entity is responsible for administering.

9) Exempts the following from these provisions:

    a) A religious corporation, entity, association, educational institution, or society that is exempt from the requirements of Title VII of the Civil Rights Act of 1964, as defined, or is exempt from employment discrimination protections of state law, as specified, with respect to speech on religious matters to employees who perform work connected with the activities undertaken by that religious corporation, entity, association, educational institution, or society.
    b) A political organization or party requiring its employees to attend an employer-sponsored meeting or to participate in any communications with the employer or its agents or representatives, the purpose of which is to communicate the employer's political tenets or purposes.
    c) An educational institution requiring a student or instructor to attend lectures on political or religious matters that are part of the regular coursework.
    d) A nonprofit, tax-exempt training program requiring a student or instructor to attend classroom instruction, complete fieldwork, or perform community

service hours on political or religious matters as it relates to the mission of the training program or sponsor.

e) An employer requiring employees to undergo training to comply with the employer's legal obligations, including obligations under civil rights laws and occupational safety and health laws.
f) A public employer holding a new employee orientation, as defined in Section 3555.5 of the Government Code, or a provider holding an orientation as described in Section 12301.24 of the Welfare and Institutions Code.

10) Provides 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 without the invalid provision or application.

Background

Captive audience meetings are mandatory meetings during work hours, organized by an employer where employees are paid for their time attending the meeting and are required to attend or face discipline. Critics of these meetings argue that they are used to intimidate workers and spread the employers' personal views on various issues. Employers argue the practice as being part of freedom of speech.

On April 07, 2022, National Labor Relations Board General Counsel Jennifer Abruzzo issued a memorandum to all field offices announcing that she would be asking the Board to find mandatory meetings in which employees are forced to listen to employer speech concerning the exercise of their statutory labor rights, including captive audience meetings, a violation of the National Labor Relations Act (NLRA). According to General Counsel Abruzzo, in workplaces across America, employers routinely hold mandatory meetings in which employees are forced to listen to employer speech concerning the exercise of their statutory labor rights, especially during organizing campaigns.

[NOTE: Please see the Senate Labor, Public Employment and Retirement Committee analysis on this bill for more background information.]

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

According to the Assembly Appropriations Committee:

1) Costs of approximately $334,000 in the first year and approximately $323,000 annually thereafter to DLSE to provide enforcement upon receiving an

employee complaint (Labor Enforcement Compliance Fund), potentially offset by a minor amount of penalty revenue.

2) Annual cost pressures (General Fund (GF) or Trial Court Trust Fund (TCTF)) of an unknown amount, potentially up to $150,000, to the courts in additional workload. As an alternative to administrative enforcement through DLSE, this bill authorizes an employee to bring a civil action through the courts. It is unclear how many actions may be filed statewide, but the estimated workload cost of one hour of court time is $1,000. Although courts are not funded on the basis of workload, increased pressure on staff and the TCTF may create a need for increased court funding from the GF to perform existing duties. The Budget Act of 2024 includes $37.3 million ongoing GF to backfill declining TCTF revenue.

SUPPORT: (Verified 8/22/24)

California Federation of Labor Unions (co-source)
California Teamsters Public Affairs Council (co-source)
Alameda Labor Council
American Federation of Labor and Congress of Industrial Unions, AFL-CIO
American Federation of State, County and Municipal Employees
California Conference Board of the Amalgamated Transit Union
California Conference of Machinists
California Democratic Party
California Faculty Association
California Federation of Teachers, AFL-CIO
California IATSE Council
California Nurses Association
California Professional Firefighters
California Rural Legal Assistance Foundation, INC.
California School Employees Association
California State Legislative Board, Sheet Metal, Air, Rail and Transportation Workers – Transportation Division
California Teachers Association
California Teamsters Public Affairs Council
Center on Policy Initiatives
Central Coast Labor Council
Clergy and Laity United for Economic Justice
Contra Costa Central Labor Council
Engineers and Scientists of California, IFPTE Local 20, AFL-CIO
Hadassah

International Union of Elevator Constructors Local 8
Ironworkers Local 433
JCRC of Jewish Silicon Valley
Jewish Center for Justice
Jewish Community Relations Council of Sacramento
Jewish Democratic Club of Silicon Valley
Jewish Family & Children's Service of Long Beach and Orange County
Jewish Family Services of San Diego
Jewish Family Services of Silicon Valley
Jewish Federation of the Greater San Gabriel and Pomona Valleys
Jewish Federation of the Sacramento Region
Jewish Long Beach
Jewish Public Affairs Committee of California
Jewish Silicon Valley
Jobs to Move America
JVS SoCal
North Bay Labor Council
Pillars of the Community
Progressive Zionists of California
Sacramento Central Labor Council, AFL-CIO
San Diego Black Workers Center
State Building and Construction Trades Council of California
TechEquity Collaborative
UAW Region 6
Unemployed Workers United
UNITE HERE, AFL-CIO
United Food and Commercial Workers, Western States Council
United Nurses Associations of California/Union of Health Care Professionals
Utility Workers Union of America
Voices for Progress
Warehouse Worker Resource Center
Worksafe

OPPOSITION: (Verified 8/22/24)

Acclamation Insurance Management Services
Agricultural Council of California
Air Conditioning Sheet Metal Association
Allied Managed Care
Associated Equipment Distributors
Associated General Contractors of California

Associated General Contractors San Diego Chapter
Association of California Healthcare Districts
Brea Chamber of Commerce
California Apartment Association
California Association for Health Services At Home
California Association of Recreation and Parks Districts
California Association of Sheet Metal & Air Conditioning Contractors National
California Association of Winegrape Growers
California Attractions and Parks Association
California Bankers Association
California Beer and Beverage Distributor
California Business Properties Association
California Business Roundtable
California Chamber of Commerce
California Credit Union League
California Employment Law Council
California Farm Bureau
California Grocers Association
California Hotel & Lodging Association
California Landscape Contractors Association
California League of Food Producers
California Lodging Industry Association
California Manufactures & Technology Association
California Restaurant Association
California Retailers Association
California Special Districts Association
California State Association of Counties
California State Council of the Society for Human Resource Management
California Trucking Association
Carlsbad Chamber of Commerce
Chino Valley Chamber of Commerce
Coalition of California Chambers – Orange County
Coalition of Small and Disabled Veteran Businesses
Construction Employers' Association
Corona Chamber of Commerce
Danville Area Chamber of Commerce
Family Business Association of California
Finishing Contractors Association of Southern California
First Amendment Coalition
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 High Desert Chamber of Commerce
Greater San Fernando Valley Chamber of Commerce
Hollywood Chamber of Commerce
Housing Contractors of California
Independent Lodging Industry Association
International Warehouse Logistics Association
La Cañada Flintridge Chamber of Commerce
Laguna Niguel Chamber of Commerce
League of California Cities
Lodi District Chamber of Commerce
Murrieta/Wildomar Chamber of Commerce
National Electrical Contractors Association
National Federation of Independent Business
Northern California Allied Trades
Oceanside Chamber of Commerce
Official Police Garages Association of Los Angeles
Palos Verdes Peninsula Chamber of Commerce
Paso Robles Chamber of Commerce
Plumbing-Heating-Cooling Contractors Association of California
Roseville Area Chamber of Commerce
Rural County Representatives of California
San Juan Capistrano Chamber of Commerce
Santa Clarita Valley Chamber of Commerce
Santee Chamber of Commerce
Society of Human Resources Management
Simi Valley Chamber of Commerce
South County Chambers of Commerce
Southern California Contractors Association
Southern California Glass Management Association
Southwest California Legislative Council
Templeton Chamber of Commerce
Torrance Chamber of Commerce
Tri County Chamber Alliance
Tulare Chamber of Commerce

United Contractors
Urban Counties of California
Vacaville Chamber of Commerce
Vista Chamber of Commerce
Wall and Ceiling Alliance
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

ARGUMENTS IN SUPPORT: According to the sponsors of this bill, "The effectiveness of captive audience meetings has led to employers using these forced meetings for political and religious purposes. The Royal Dutch Shell company invited then-candidate Trump to give a speech at their facility in 2019. The employers sent a memo to workers stating that attendance of the Trump rally was "not mandatory," but that if they did not clock in to work that day they would lose pay and become ineligible to receive the 16 hours of overtime pay. Workers who attended were told "anything viewed as resistance" would not be tolerated at the event."

ARGUMENTS IN OPPOSITION: According to a coalition of employer organizations, SB 399 violates the First Amendment arguing that it is a content-based restriction on speech. Among other things, they argue, "it is clear that the motive behind SB 399's prohibition on employers discussing their opinions about unionization or pending bills is the assumption that employers will talk to their employees about the downsides of unionization and union-sponsored efforts, which the proponents of this bill disagree with. That is clear viewpoint-based discrimination, which also runs afoul of the First Amendment." Additionally, they argue, "employees are already protected by law against coercion, discrimination, retaliation, and hostile environment harassment. Within those boundaries, employers have the same First Amendment right as any person, natural or corporate, to state their views."Click here to enter text.

Prepared by: Alma Perez-Schwab / L., P.E. & R. / (916) 651-1556
8/30/24 17:27:05

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

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UNFINISHED BUSINESS

Bill No: SB 549
Author: Newman (D), et al.
Amended: 8/19/24
Vote: 21

PRIOR SENATE VOTE NOT RELEVANT

ASSEMBLY FLOOR: 62-0, 8/29/24 - See last page for vote

SUBJECT: Gaming: Tribal Nations Access to Justice Act

SOURCE: Author

DIGEST: This bill authorizes a California Indian tribe to bring an action in superior court against a cardroom and third party providers seeking a declaration as to whether a controlled game operated by a cardroom and banked by a third-party provider constitutes a banking card game that violates state law, as specified.

Assembly Amendments delete the previous version of the bill and instead authorizes California Indian tribes, as specified, to bring an action in superior court, filed against a licensed cardroom and third-party provider seeking declaration as to whether a controlled game operated by a licensed cardroom and banked by a third-party provider constitutes a banking card game that violates state law.

ANALYSIS:

Existing law:

1) The State Constitution and various other state laws limit the types of legal gambling that can occur in California. Specifically to the provisions of this bill, under the California Constitution Article IV – Legislative Section 19, law states:

    e) The Legislature has no power to authorize, and shall prohibit, casinos of the type currently operating in Nevada and New Jersey. (Proposition 37, the California State Lottery Act of 1984)

f) Notwithstanding subdivision (a) and (e) and any other provision of state law, the Governor is authorized to negotiate and conclude compacts subject to ratification by the Legislature for the operation of slot machines and for the conduct of lottery games and banking and percentage card games by federally recognized Indian tribes on Indian lands in California in accordance with federal law. Accordingly, slot machines, lottery games and banking and percentage card games are hereby permitted to be conducted and operated on tribal lands subject to those compacts. (Proposition 1A, Gambling on Tribal Lands Amendments of 2000)

2) Provides, under the Indian Gaming Regulatory Act (25 U.S.C. Sec. 2701 et seq.), a statutory basis for conducting licensed and regulated tribal government gaming on Indian lands, as a means of strengthening tribal self-sufficiency through the creation of jobs and tribal economic development, and provides that certain forms of gaming, known as "Class III gaming," will be subject to an agreement between a tribe and the state (Tribal-state gaming compacts).

3) Establishes, under the Gambling Control Act (Act), the California Gambling Control Commission (Commission), which is responsible for licensing and regulating various gambling activities and establishments. Under the Act, the Bureau of Gambling Control (Bureau), under the Department of Justice (DOJ), is responsible for investigating any violations of, and enforcing controlled gaming activities under the Act. (Business and Professions Code section 19800 et seq.)

4) Provides, under California Penal Code section 330.11, that "banking game" or "banked game" does not include a controlled game if the published rules of the game feature a player-dealer position and provide that this position must be continuously and systematically rotated amongst each of the participants during the play of game, ensure that the player-dealer is able to win or lose only a fixed and limited wager during the play of the game, and preclude the house, another entity, a player, or an observer from maintaining or operating as a bank during the course of the game. Existing law provides that for purpose of this section, "it is not the intent of the Legislature to mandate acceptance of the deal by every player if the division finds that the rules of the game render the maintenance of or operation of a bank impossible by other means. The house shall not occupy the player-dealer position."

5) Provides, under Business and Professions Code section 19805, that a "player-dealer" and "controlled game featuring a player-dealer position" refers to a position in a controlled game, as defined by the approved rules for that game, in

which players are afforded the temporary opportunity to wager against multiple players at the same table provided that this position is rotated amongst the other seated players in the game.

6) Authorizes, under Business and Professions Code section 19984, a licensed cardroom to contract with a third-party provider for the purpose of providing proposition players services at a gambling establishment, subject to specified conditions. Existing law requires any agreement, contract, or arrangement between a gambling enterprise and a third party provider of proposition player services shall be approved in advance by the Bureau, and in no event shall a gambling enterprise have any interest, whether direct or indirect, in funds wagered, lost, or won.

This bill:

1) Authorizes a California Indian tribe that is party to a current ratified tribal-state gaming compact, or that is party to current secretarial procedures pursuant to federal law, to bring an action in superior court, filed solely against a licensed gambling enterprise and third party proposition player services providers, seeking a declaration as to whether a controlled game operated by a licensed gambling establishment and banked by a third-party proposition player services provider constitutes a banking card game that violates state law including tribal gaming rights under Section 19 of Article IV of the California Constitution, and may also request injunctive relief.

2) Authorizes a court to make a binding declaration in either affirmative or negative form and effect, which is to have the force of a final judgement, and may issue injunctive relief enjoining further operation of the controlled game or grant any other relief the court deems appropriate. No claim for money damages, penalties, or attorney's fees shall be permitted under this section.

3) Requires any review, pursuant to the provisions of this bill, to be conducted de novo.

4) Requires any action, pursuant to the provisions of this bill, to be filed no later than April 1, 2025, in the Superior Court of California, County of Sacramento.

5) Provides that if multiple causes of action are commenced, that the cases are to be consolidated for all purposes, including trial to avoid the risk of inconsistent declarations.

6) Provides that, notwithstanding existing law, any California Indian tribe that is party to a current ratified tribal-state compact or that is party to current

secretarial procedures, any licensed gambling enterprise, and any third-party proposition player services provider is entitled to intervene in any case brought pursuant to this bill as a matter of right.

7) Provides that nothing in this bill is intended to authorize an action for declaratory or injunctive relief against the State of California or otherwise impose liability against the state or its officers.

8) Includes a severability clause.

Background

House Banked Games. Like in Las Vegas, persons placing wagers at California's tribal casinos place their wagers against "the house." These casinos can generally utilize "house" money whereby gamblers play against the house, typically in the form of a dealer. In this scenario, the casino makes money when the "house" prevails in a game. These casinos, given that they are operated by sovereign governments, are generally governed by tribal-state gaming compacts between the State of California and each individual gaming tribe.

Conversely, California cardrooms are prohibited from utilizing "house" money. The state's licensed cardroom utilize a provision of the Act that allows patrons to wager against multiple players at the table or against a third-party provider acting as a player. In these games, called player-dealer games, no "house" money is involved, and the rules of the games must be strictly played in a manner approved by the Bureau. Cardrooms do not make money through "house" winnings but instead charge small fees on each hand played.

Tribal interests maintain that controlled games with a player-dealer feature at California's cardrooms run afoul of the California's Constitution and state laws. The tribes maintain that minor changes in the rules do not alter the basic legal analysis. A game is a banking game if under the rules of that game, it is possible that the house, another entity, a player, or an observer can maintain a bank or operate as a bank during the play of the game. The tribes maintain that if an entity is taking all that is won, and paying out all that is lost, then it is a banked game in violation of the California Constitution unless played on Indian lands subject to a federally-approved gaming compact or Secretarial Procedures.

The tribes contend that cardrooms use third-party proposition players to offer versions of blackjack, baccarat and other "California games" that replicate house-banked table games in tribal casinos. They argue that this illegal activity takes revenue away from the state's tribal casinos. According to the tribes, SB 549 will

finally address the legality of games being played in cardrooms in California, which has led to widespread and ongoing illegal gaming.

California cardrooms argue they are operating in compliance with the law and regulations and game rules established by California's bifurcated regulatory system. The cardroom industry maintains that the Attorney General, through the Bureau, has approved the allowed games and the manner in which they are played and is better suited than the courts to make any legal decision. Allowing a lawsuit encroaches upon the right of the state to interpret, apply, and enforce the law. Furthermore, since many card clubs have been playing the disputed games for decades, they cite historical precedent on this matter. Moreover, when faced with legal challenges, cardrooms have been successful in court. Cardrooms also argue that SB 549 is unfair in that it gives the tribes legal standing to sue the cardrooms, but it does not give card clubs the ability to sue tribes due to their sovereign immunity.

A Long Historical Feud. Going back to 2007, opinion letters or other actions on the matter by regulators have been issued, reversed, and further issued with no definitive clarity or action. In some cases, California's Cardrooms claimed the action went too far while the tribes said they did not go far enough.

For instance, in 2016, then-Attorney General (AG) and now Democratic candidate for United States President, Kamala Harris instituted a review of the Bureau's inspection and game approval process. With the initiation of that review and subsequent guidelines and with AG Harris leaving office to become a United States Senator, uncertainty or discontent remained among the interested parties on the matter.

In 2019, the Bureau, under AG Xavier Becerra, once again proposed changes to the regulations governing cardrooms relating to the rotation of the player-dealer position in controlled games that feature such a position. The proposed regulations sought to clarify and enforce the rules regarding the operation of house-banked games. The Bureau held workshops throughout the state to receive input from stakeholders and the public on the issue prior to the initiation of the formal rulemaking process on the proposed regulations. However, the regulatory process was disrupted by the pandemic and AG Becerra taking a position in the Biden administration. The proposed regulations were never implemented.

Seeking to gain legal clarity, in 2018, the Rincon Band of Luiseño Mission Indians and the Santa Ynez Band of Chumash Mission Indians), business entities affiliated with the tribes, and individual tribal members sued 11 cardrooms from various parts of southern California and three third-party providers alleging that they were

offering banked card games on non-tribal land, in violation of the exclusive right of Indian tribes to offer such games (Rincon Band of Luiseño Mission Indians v. Flynt (2021) 70 Cal. App. 5th 1059). Based on those allegations, the plaintiffs asserted claims for public nuisance, unfair competition, declaratory and injunctive relief, and tortious interference with a contractual relationship and prospective economic advantage.

However, both a trial court and the California Court of Appeal, Fourth Appellate District, Division One (San Diego) denied the tribes standing. The court ruled that, "as governmental entities, Indian tribes and their affiliated business entities are not 'persons' with standing to sue under the unfair competition law (UCL), and are not 'private person[s]' with standing under the public nuisance statutes (Civ. Code, §§ 3480, 3493). The court further ruled the business entities and the individual tribe members failed to plead sufficient injury to themselves to establish standing to sue under the UCL or the public nuisance statutes."

Additionally, in December 2020, the United States Court of Appeals for the Ninth Circuit upheld a lower court's dismissal of a 2019 lawsuit filed by three California Tribes (Yocha Dehe Wintun Nation, the Viejas Band of Kumeyaay Indians and the Sycuan Band of the Kumeyaay Nation) against the State of California and Governor Gavin Newsom. The lawsuit alleged breaches of gaming compacts that purportedly grant the Tribes exclusive rights to operate banked card games. The Tribes alleged the State had violated the compacts, its duty of good faith and fair dealing, and article IV, section 19 of the California Constitution ("Proposition 1A"), by failing to prevent non-Indian cardrooms from also conducting banked card games.

The Ninth Circuit concluded: "We need not today decide whether exclusivity is a compact term. Even assuming that it is, the remedy the Tribes seek, an injunction requiring the State to enforce its laws against non-Indian cardrooms that allegedly operate illegal banked card games, cannot be granted. Nothing in the compacts purports to impose on the State the obligation to enforce its laws against non-Indian cardrooms, and nothing in the contracts suggests the Tribes may seek that remedy based on an alleged breach of any exclusivity guarantee. … Nothing in the compacts suggests we can order the State to turn its law enforcement priorities towards certain lawbreakers, as individual law enforcement decisions are particularly ill-suited to judicial review."

Following those judicial decisions, several tribes added a provision to Proposition 26 in 20022, which was primarily related to sports betting to add a new way to

enforce certain state gambling laws, such as laws banning certain types of card games. Proposition 26 would have allowed people or entities that believe someone is breaking related gaming laws to file a civil lawsuit in state trial courts. Although that provision was largely lost in the costly debate over sports betting, it failed along with the broader Proposition.

Last year, the Legislature adopted AB 341 (Ramos, Chapter 8 Statutes 2023), which featured many of the same stakeholders involved in this bill. The bill reinstated a gambling moratorium until January 1, 2043, related to the expansion of cardroom gaming and the issuance of new gambling licenses in the state, and included limited table expansion for smaller cardrooms in the state. The bill avoided any discussion of the issue of legality of the games played in card clubs.

Finally, last year, Attorney General Rob Bonta announced a review of games being played at California's cardrooms. According to reports, he would be looking at prior approvals of games being played and determine if any of those games violated state law. That review has not been finalized.

Tribal Gaming in California. The Indian Gaming Regulatory Act (IGRA) was enacted by the United States Congress on October 17, 1988, to regulate the conduct of gaming on tribal lands. The stated purposes of the IGRA include providing a legislative basis for the operation/regulation of Indian gaming, protecting gaming as a means of generating revenue for the tribes, encouraging economic development of these tribes, and protecting the enterprises from negative influences.

In California, Proposition 1A (2000) amended the California State Constitution to allow federally recognized tribes to operate slot machines, lottery games, and banking and percentage card games on tribal lands in California. A tribe can operate a casino if (1) the Governor and the tribe reach an agreement on a tribal-state compact, (2) the Legislature approves the compact, and (3) the federal government approves the compact. If the tribe and the state cannot agree, the federal government may issue a compact instead. Negotiated compacts allow for Class III gambling, which is the subject of this measure, generally includes banked card games, virtually all video or electronic games, and slot machines. California's Constitution bans roulette, and games with dice, such as craps. In response, many tribal casinos have developed creative ways to offer games similar to craps and roulette.

The State of California has signed and ratified tribal-state gaming compacts with approximately 76 tribes and there are Secretarial Procedures in effect with four

tribes. There are approximately 66 casinos operated by 63 tribes in 28 counties across the state. The compacts and procedures specify the regulatory standards and obligations for the tribes and the state. Tribal casinos generally only have to abide by federal gaming laws and the guidelines of the gaming compact because they are operated by sovereign governments.

The Commission and the Bureau share responsibility for ensuring that tribes comply with the terms of their tribal-state compacts. Last year, tribes paid approximately $67 million to support state regulation and gambling addiction programs. Tribes also pay tens of millions of dollars to local governments each year. Additionally, limited and nongaming tribes have benefitted from more than $1 billion in vital revenues over the last 20 years, due to revenue sharing by gaming tribes.

California's Cardrooms. California's cardrooms have operated in some capacity since the Gold rush era. Currently, there are approximately 83 cardrooms that operate in 32 counties in California. There are 2,203 tables licensed for play statewide, many of which are located in Los Angeles, the Central Coast, the Bay Area, and the Central Valley. A small percentage are large in scale, the rest are smaller operations, sometimes as small as one table, scattered throughout the State. The industry generates roughly $850 million in revenue after winnings. Cardrooms and their owners are subject to state business and income taxes. Additionally, about $24 million in fees are projected to be collected annually from the industry to support state regulatory and problem gaming costs.

The Act provides the Commission with jurisdiction over the operation of gambling establishments in California. The Act requires every owner, lessee, or employee of a gambling establishment to obtain and maintain a valid state gambling license and assigns the Commission with responsibility of assuring that gambling licenses are not issued to, or held by, unqualified or disqualified persons, or by persons whose operations are conducted in a manner that is harmful to the public health, safety, or welfare. The Act directs the Commission to issue licenses only to those persons of good character, honesty and integrity; whose prior activities, criminal record, if any, reputation, habits, and associations do not pose a threat to the public interest of this state.

The DOJ, through the Bureau, monitors the conduct of gaming operations to ensure compliance with state gambling laws and conducts extensive background investigations of applicants seeking a state gambling license. The Bureau also conducts background checks for all key employees and state gambling licensees and vendor applications. The Bureau also inspects premises where gambling is

conducted, examines gambling equipment, audits papers, books, and records of the gambling establishment, investigates suspected violations of gambling laws, and is ultimately responsible for enforcing compliance with all state laws pertaining to gambling. Specific to this bill, the Bureau is also responsible for the approval of games that cardrooms are allowed to offer.

All gaming rules and games for each California cardroom that have been approved for play by the Bureau can be found on the regulatory agencies website for public viewing.

Third-Party Providers of Proposition Player Services. In 2000, AB 1416 (Wesson, Chapter 1023, Statutes of 2000) authorized cardrooms to contract with a third party for the purpose of providing proposition player services.

The Bureau's website states that third-party providers are businesses that provide services in and to a gambling establishment under any written, oral, or implied agreement with the gambling establishment, which services include play as a participant in any controlled game that has a rotating player-dealer position as permitted by CA Penal Code section 330.11. State regulations require these companies to be financially independent from cardrooms.

Prior to providing proposition player services in a California gambling establishment, third-party providers and its owners and employees must obtain a registration. In addition, they must submit the agreement, in the form of a written contract, and a playing book form to the Bureau for prior approval. Background investigations are conducted by Bureau staff on applicants to determine whether they are suitable to hold a license. Currently there are 23 active third-party providers licensed to operate in California.

According to these companies, cardrooms operate under some of the strictest regulations of any industry in California, including internal control standards on cage/count operations, security and surveillance, operations, financial reporting, and responsible gambling.

In relation to this bill, tribal casinos assert cardrooms are violating and circumventing the law by utilizing third-party providers to act as the bank in designated controlled games that have been approved by the Bureau.

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

According to the Assembly Appropriations Committee, annual costs of approximately $6.7 million to $8.1 million, ongoing for a minimum of three and a

half years, to the Judicial Council to accommodate the significant number of anticipated filings (Trial Court Trust Fund [TCTF] or General Fund [GF]). Given the number of tribal casinos, cardrooms, and individual tables that could be party to each individual action, the Judicial Council would establish a dedicated judicial department at the Sacramento County Superior Court to handle the increased workload. Associated department costs include appointing a dedicated judge, hiring additional attorneys and clerks, and funding operations. The Judicial Council notes there may be delays and prioritization of court cases, impacting access to justice, if funding is not provided for the new workload created by this bill, and that the three-month window to bring an action should be delayed to July 1, 2025, to ensure resources are provided in the state budget to implement this bill. Although courts are not generally 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 Budget Act of 2024 includes $37.3 million ongoing GF to backfill declining TCTF revenue.

Additionally, annual costs of approximately $74,000, ongoing for four years, to the Department of Justice (DOJ) for increased workload to its Native American and Tribal Affairs Section to represent the state in potential litigation (Gambling Control Fund). Although it is unlikely an action would be brought against the state, the state may be involved in litigation as a result of third-party discovery requests or through the filing of an amicus brief. Since complaints must be filed within three months, DOJ anticipates any discovery involving the state to begin close in time to this bill's operative date, necessitating immediate resources on January 1, 2025.

Finally, costs of an unknown, but likely similar, amount to the California Gambling Control Commission (CGCC) in connection with legal proceedings (Gambling Control Fund). CGCC notes any action filed will likely require CGCC to respond to subpoenas by providing documents or making employees available for depositions. To the extent the outcome of litigation results in significant changes to the size of the cardroom industry, this bill may reduce future CGCC workload and associated fees deposited into the Gambling Control Fund.

SUPPORT: (Verified 8/30/24)

Agua Caliente Band of Cahuilla Indians
Alturas Indian Rancheria
Augustine Band of Cahuilla Indians
Barona Band of Mission Indians
Berry Creek Rancheria of Maidu Indians of California

Big Sandy Rancheria
Big Valley Band of Pomo Indians
Bishop Paiute Tribe
Blue Lake Rancheria
Blue Lake Rancheria of California
Blue Lake Rancheria Tribe of California
Buena Vista Rancheria
Cachil Dehe Band of Wintun Indians of Colusa
Cahto Tribe of The Laytonville Rancheria
Cahuilla Band of Indians
California-Nevada Conference of Operating Engineers
California Nations Indian Gaming Association
California State Building and Construction Trades Council
California State Council of Laborers
California Tribal Business Alliance
Chemehuevi Indian Tribe
Chicken Ranch Rancheria of Me Wuk Indians of California
Chukchansi Economic Development Authority
California Nations Indian Gaming Association
Colusa Indian Community Council
District Council of Iron Workers of The State of California and Vicinity
Elk Valley Rancheria, California
Enterprise Rancheria
Federated Indians of Graton Rancheria
Greenville Rancheria
Habematolel Pomo of Upper Lake
Jamul Indian Village
Karuk Tribe
Mooretown Rancheria
Morongo Band of Mission Indians
North Fork Rancheria of Mono Indians
Paskenta Band of Nomlaki Indians
Pechanga Band of Indians
Picayune Rancheria of The Chukchansi Indians
Pit River Tribe
Redding Rancheria
Rincon Band of Luiseno Indians
San Manuel Band of Mission Indians
San Pasqual Band of Mission Indians
Santa Rosa Band of Cahuilla Indians

Santa Rosa Rancheria Tachi Yokut Tribe
Santa Ynez Band of Chumash Indians
Scotts Valley Band of Pomo Indians
Shingle Springs Band of Miwok Indians
Soboba Band of Luiseno Indians
Sycuan Band of The Kumeyaay Nation
Table Mountain Rancheria
Tachi Yokut Tribe
Tejon Indian Tribe
The United Food and Commercial Workers Western States Council
Tolowa Dee-ni' Nation
Tribal Alliance of Sovereign Indian Nations
Tule River Indian Tribe of California
Tuolumne Band of Me-wuk Indians of The Tuolumne Rancheria
Viejas Band of Kumeyaay Indians
Yocha Dehe Wintun Nation

OPPOSITION: (Verified 8/30/24)

Ace & Vine
AFSCME Council 36
AFSCME Council 57
AFSCME Local 101
AFSCME Local 773
American Federation of State, County and Municipal Employees (AFSCME), CA
Aquatics Booster Club - City of Commerce
Artichoke Joe's Casino
Asociacion De Migrantes Guatemaltecos
Auld Lang Syne Club
Bay 101 Casino
Blackstone Gaming, LLC
California Cardroom Alliance
California Cities for Self-reliance Joint Powers Authority
California Cities Gaming Authority
California Commerce Club, INC.
California Contract Cities Association
California Grand Casino
California Human Development
California Professional Firefighters
Capitol Casino
Casa Del Diabetico Gualan

Casino Chico
Casino M8trix
Casino Madera
Central Valley Opportunity Center
Cerritos Regional Chamber of Commerce
Citrus Heights Police Department
City of Bell Gardens
City of Chula Vista
City of Citrus Heights
City of Commerce
City of Commerce Youth Advisory Commission
City of Compton
City of Compton, Councilmember Lillie P. Darden
City of Cudahy
City of Emeryville
City of Fresno, Mayor Jerry P. Dyer
City of Gardena
City of Hawaiian Gardens
City of Inglewood
City of Livermore
City of Maywood
City of Oceanside
City of San Jose
City of San Jose, Councilmember Bien Doan
City of San Jose, Councilmember David Cohen,
City of San Jose, Councilmember Dev Davis
City of San Jose, Councilmember Omar Torres
City of San Jose, Councilmember Pam Foley
City of San Jose, Councilmember Sergio Jimenez
City of San Jose, Mayor Matt Mahan
City of Santa Fe Springs
City of Tracy
Club One Casino, INC
Commerce Business Council Chamber of Commerce
Communities for California Cardrooms
County of Los Angeles Board of Supervisors
Delta C Lp and Affiliated Entities
Diligencias
District Council 36, International Union of Painters and Allied Trades
East Los Angeles Chamber of Commerce

El Concilio Family Services
Elevation Entertainment Group
First Day Foundation
Gardena Police Department
Garlic City Club and Restaurant
Girl Scouts of Greater Los Angeles
Hawaiian Gardens Casino
Hawaiian Gardens Eagles Soccer
Hawaiian Gardens Golden Age Club
Hawaiian Gardens Little League
Hollywood Park Casino
Human Services Association
Hustler Casino
International Union, United Automobile, Aerospace, and Agricultural Implement Workers of America
Janice Hahn, Board Supervisor, Los Angeles
KB Ventures
King's Casino, LLC
Kings Card Club
Kings Casino
Knighted Ventures
LA Cooperativa Campesina De California
Lake Elsinore Casino
Larry Flynt's Lucky Lady Casino
Le Gaming
Limelight
Livermore Casino
Los Amigos De LA Comunidad, INC.
Los Angeles County Business Federation
Los Angeles County Federation of Labor
Los Angeles County Firefighters Local 1014
Los Angeles County Professional Peace Officers Association
Lucky Chances Casino
Napa Valley Casino
Oaks Card Club
Ocean's Eleven Casino
Painters and Trades District Council Local 36
Parkwest Casinos
Player's Poker Club, INC.
Players Edge

Racxx Cardroom
Santa Barbara Mariachi Festival
SEIU California
Senior Citizen Club, City of Commerce
Seven Mile Casino
Social Equity
Stars Casino
Stones Gambling Hall
Teamsters Local 630
The Gardens Casino
Town of Colma
Union De Guatemaltecos Emigrantes
Westlane Card Room
Womens Club of Rosewood Park
2 Kings Gaming INC.
500 Club Casino

ASSEMBLY FLOOR: 62-0, 8/29/24
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Chen, Connolly, Davies, Dixon, Essayli, Flora, Mike Fong, Friedman, Gabriel, Gallagher, Garcia, Grayson, Haney, Hart, Holden, Irwin, Jackson, Kalra, Lee, Low, Lowenthal, Maienschein, Mathis, Muratsuchi, Stephanie Nguyen, Petrie-Norris, Ramos, Rendon, Reyes, Luz Rivas, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Robert Rivas
NO VOTE RECORDED: Cervantes, Megan Dahle, Gipson, Hoover, Jones-Sawyer, Lackey, McCarty, McKinnor, Ortega, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Quirk-Silva, Wood, Zbur

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Prepared by: Felipe Lopez / G.O. / (916) 651-1530
8/30/24 16:41:30

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

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UNFINISHED BUSINESS

Bill No: SB 552
Author: Newman (D), et al.
Amended: 8/22/24
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 12-0, 1/8/24
AYES: Roth, Nguyen, Alvarado-Gil, Archuleta, Ashby, Becker, Dodd, Glazer, Niello, Smallwood-Cuevas, Wahab, Wilk
NO VOTE RECORDED: Eggman

SENATE HOUSING COMMITTEE: 10-0, 1/9/24
AYES: Wiener, Seyarto, Blakespear, Caballero, Cortese, Jones, Padilla, Skinner, Umberg, Wahab

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 39-0, 1/22/24
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, Stern, Umberg, Wahab, Wiener, Wilk
NO VOTE RECORDED: Smallwood-Cuevas

ASSEMBLY FLOOR: 56-0, 8/30/24 – Roll call vote not available

SUBJECT: Public safety: pools and spas

SOURCE: California Coalition for Children's Safety and Health
California Real Estate Inspection Association, Inc.

DIGEST: This bill revises the requirements for a home inspector when conducting a home inspection of a private-single family home with a pool or spa

and updates which drowning prevention features may be combined to meet specified safety requirements, among other changes.

Assembly Amendments add intent language; incorporate additional requirements for a home inspector to include in a home inspection report related to pool or spa equipment; revise and recast the definition of "approved safety pool cover" and "exit alarms"; and, make other technical, clarifying and conforming changes, including language to address a chaptering issue.

ANALYSIS:

Existing law:

1) Defines a "home inspection" as a noninvasive, physical examination, performed for a fee in connection with a transfer of real property, as specified, of the mechanical, electrical, or plumbing systems or the structural and essential components of a residential dwelling of one to four units, to identify material defects in those systems, structures, and components and includes any consultation regarding the property that is represented to be a home inspection or any confusingly similar term. (Business and Professions Code (BPC) § 7195(a)(1))

2) States that in connection of a transfer of real property with a swimming pool or spa a home inspection is to include a noninvasive physical examination of the pool or spa and dwelling for the purpose of identifying, which, if any, of the seven drowning prevention safety features listed in the Health and Safety Code (HSC) the pool or spa is equipped. (BPC § 7195(a)(2))

3) Defines a "home inspection report" as a written report prepared for a fee and issued after a home inspection, which clearly describes and identifies the inspected systems, structures, or components of the dwelling, any material defects identified, and any recommendations regarding the conditions observed or recommendations for evaluation by appropriate persons; and, in a dwelling with a pool or spa, identifies which, if any, of the seven drowning prevention safety features the pool or spa is equipped with, and specifically states if the pool or spa has fewer than two of the listed drowning prevention safety features. (BPC § 7195(c))

4) Requires when a building permit is issued for the construction of a new swimming pool or spa or the remodeling of an existing swimming pool or spa at a private single-family home, the pool or spa be equipped with at least two

drowning prevention safety features, as specified. (Health and Safety Code (HSC) § 115922(a))

This bill:

1) Revises the requirement for a home inspection of real property with a swimming pool or spa to include in the inspection report the drowning prevention safety features and note if they are in good repair, operable as designed, and, if applicable, appropriately labeled, as specified.

2) States that the requirements specified in 1) above does not require the home inspector to make a determination as to whether a pool or spa safety feature meets the ASTM International and American Society of Mechanical Engineers specifications, as referenced in the HSC.

3) Revises the definition of a "home inspection report" to also include a written statement that a pool isolation fence, as described in HSC § 115923, is the most studied and effective drowning prevention safety feature for preventing a child from accessing a pool or spa unsupervised, as specified.

4) Clarifies that the home inspection report does not require a determination as to whether a pool safety feature meets ASTM International and American Society of Mechanical Engineers specifications, as referenced in the HSC..

5) Updates the definition and requirements for "approved safety pool cover" and "exit alarms".

6) Updates the recasts definitions and requirements for the following drowning prevention features: manually operated pool cover, exit alarms, alarm placed in a pool or spa, and removable mesh fencing, as specified.

7) Revises the specifications of specified drowning prevention safety features as defined in the HSC.

8) Specifies that the requirements for meeting two of the seven pool safety features required for the construction or remodel of a swimming pool or spa at a private single-family residence are not satisfied by certain conditions.

9) States Legislative intent to:

a) Clarify that a home inspector is not required to determine whether an equipped drowning prevention safety feature meets the cited standards;

b) Prohibit the combination of certain authorized drowning prevention safety features when those configurations do not provide at least two layers of safety, as intended by the Swimming Pool and Safety Act, as specified;

c) Update outdated references within the Swimming Pool Safety Act; and,

d) Revisit and amend the Swimming Pool and Safety Act as necessary to reflect advancements in our understanding of the frequency and causes of childhood drowning and the efficacy of certain drowning prevention and safety features, as specified.

10) Makes other technical, clarifying, and conforming changes.

Background

There is currently no licensure requirement for home inspectors in California. However, home inspectors may hold a professional license in other capacities such as contractors, architects, engineers, or structural pest control operators. Existing law related to home inspectors establishes a standard of care, defines terms related to paid home inspections, mandates specified information be included in a home inspection report, and prohibits home inspections in which the inspector has a financial interest, among other things. There are private, voluntary certification programs for home inspectors; however, home inspectors are not required to be certified, only comply with specified industry standards.

A home inspection report should clearly identify and describe the inspected systems, structures, or components of the dwelling including any material defects identified and recommendations regarding the conditions observed, or any recommendations for evaluation by the appropriate persons. However, there are no requires for what is to be included in the report, other than noting whether the property has any of the seven specific pool or spa safety features along with which specific features are identified, or if the home inspector observes yellow corrugated stainless steel tubing during the course of a home inspection. There is currently no requirement for purchasers of real property (one to four unit dwellings) to obtain a home inspection.

Specifically related to pool and spa safety features, BPC Section 7195(a)) requires a home inspection report to include a noninvasive physical examination of the pool or spa and dwelling to identify which, if any, of the safety features identified in the HSC, intended to prevent drownings are available. The safety features specified in HSC Section 115922 include the following:

- An enclosure with certain characteristics including a 60 inch height requirement, an outside surface free from physical characteristics that would serve as handholds or footholds that a child below the age of 5 could climb over, access gates open away from the pool with a self-latching device, placed no lower than 60 inches above ground.

- Removable mesh fencing meeting ASTM standards in connection with a self-closing and self-latching gate.

- An approved safety pool cover which is defined as "manually or power-operated safety pool cover that meets all of the performance standards of the ASTM, in compliance with Standard F1346-91".

- Exit alarms on the home's doors that provide direct access to the swimming pool or spa.

- A self-closing, self-latching device with a release mechanism placed no lower than 54 inches above the floor on the private single-family home's doors providing direct access to the swimming pool or spa.

- An alarm that sounds when placed in a swimming pool or spa that sounds upon detection or unauthorized entrance into the water. The alarm must meet and be independently certified to the ASTM Standard F2208.

- Other means of protection, if the degree of protection afforded is equal to or greater than that afforded by any of the features set forth above has been independently verified by an approved testing laboratory as meeting standards for those features established by the ASTM or the American Society of Mechanical Engineers.

This bill will revise and recast the elements of three specific drowning prevention safety features noted above, including removable mesh fence, pool safety cover, and alarm. In addition, this bill will allow other means of protection be independently verified by another nationally recognized standards development

organization (in addition to those verified by the ASTM or the American Society of Mechanical Engineers).

This bill aims to clarify the elements of a home inspection with respect to the noninvasive physical examination of the pool or spa safety features during the course of the inspection. This bill updates the requirements of a home inspection by stating that the noninvasive examination of the pool or spa does not require a determination as to whether the pool or spa safety features meets the specifications for pool or spa safety features as specified in the HSC. Although the provisions of this bill specify that the home inspection report does not require the home inspector to make a determination as to whether a pool safety feature meet certain ASTM standards, this bill will additionally require the home inspection report to identify whether the features are in good repair, operable as designed, and appropriately labeled, if required. This bill requires labels be affixed to specified pool and spa safety features verifying that they meet certain standards.

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

According to the Assembly Committee on Appropriations, there are no anticipated costs to various Department of Consumer Affairs programs and the bill will result in potential local costs of an unknown amount for local code enforcement. These costs are not state-reimbursable because local agencies have the authority to charge fees to fully offset inspection and enforcement costs.

SUPPORT: (Verified 8/27/24)

California Coalition for Children's Safety and Health
California Real Estate Inspection Association, Inc.
California Pool & Spa Association

OPPOSITION: (Verified 8/27/24)

None received

ARGUMENTS IN SUPPORT: Supporters note generally that this bill will provide important updates to California’s Pool Safety Act.

Prepared by: Elissa Silva / B., P. & E.D. / 916-651-4104
8/30/24 17:27:05

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

SENATE RULES COMMITTEE SB 674
Office of Senate Floor Analyses
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VETO

Bill No: SB 674
Author: Gonzalez (D), et al.
Enrolled: 8/9/24
Vote: 27

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 4-2, 3/29/23
AYES: Allen, Gonzalez, Menjivar, Skinner
NOES: Dahle, Nguyen
NO VOTE RECORDED: Hurtado

SENATE JUDICIARY COMMITTEE: 10-1, 4/18/23
AYES: Umberg, Wilk, Allen, Ashby, Caballero, Durazo, Laird, McGuire, Min, Wiener
NOES: Niello

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 31-6, 5/22/23
AYES: Allen, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Laird, Limón, McGuire, Menjivar, Min, Newman, Padilla, Portantino, Roth, Rubio, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk
NOES: Dahle, Grove, Jones, Nguyen, Niello, Seyarto
NO VOTE RECORDED: Alvarado-Gil, Hurtado, Ochoa Bogh

SENATE FLOOR: 28-8, 8/8/24
AYES: Allen, Archuleta, Ashby, Becker, Blakespear, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Laird, Limón, McGuire, Menjivar, Min, Padilla, Portantino, Roth, Rubio, Skinner, Smallwood-Cuevas, Umberg, Wahab, Wiener, Wilk
NOES: Alvarado-Gil, Dahle, Grove, Jones, Nguyen, Niello, Ochoa Bogh, Seyarto
NO VOTE RECORDED: Atkins, Hurtado, Newman, Stern

ASSEMBLY FLOOR: 47-15, 7/1/24 - See last page for vote

SUBJECT: Air pollution: covered facilities: community air monitoring systems: fence-line monitoring systems

SOURCE: Earthjustice
East Yards Communities for Environmental Justice

DIGEST: This bill makes several changes to the fence-line monitoring program for communities and covered facilities, including expanding the program to include monitoring for biofuel refineries and additional pollutants, applying to contiguous or adjacent refinery-related facilities as specified, increasing the standards for data quality, and providing enhanced processes for notifying affected communities.

ANALYSIS: Existing law requires, under AB 1647, the owner or operator of all petroleum refineries in California to, on or before January 1, 2020, install, operate, and maintain a fence-line monitoring system in accordance with guidance provided by the appropriate district, as specified. (Health an Safety Code §42705.6)

This bill is called the Refinery Air Pollution Transparency and Reduction Act, and amends the code section created by AB 1647, to:

1) Expands the existing fence-line monitoring system program to apply to "covered facilities," defined as either: A refinery that produces gasoline, diesel fuel, aviation fuel, biofuel, lubricating oil, asphalt, petrochemical feedstock, or other similar products through the processing of crude oil or alternative feedstock, redistillation of unfinished petroleum derivates, cracking, or other processes; or a facility with operations related to a refinery, including storage tanks, sulfur recovery plants, port terminals, electrical generation plants, and hydrogen plants, that is located on a property that is contiguous or adjacent to the refinery.

2) Requires the fence-line monitoring system to cover the entire perimeter of the covered facility, except when it is infeasible based on substantial evidence or a portion of the fence-line is not within 5 miles of any area that is zoned for residential, commercial, business, industrial, recreational, or open-space use.

3) Expands the requirements for the data generation capabilities of the covered facility-related community air monitoring system.

4) Requires that the air monitoring systems monitor pollutants identified by the Office of Environmental Health Hazard Assessment, including, but not limited to, eighteen specific recommended chemicals or classes of chemicals.

a) Expands the requirements for the data generation capabilities of the fence-line monitoring system, including, but not limited to, covering the entire perimeter of the refinery and enabling real-time access to data.

b) Provides that an air district may exclude a pollutant for monitoring at a refinery-related community air monitoring system and refinery fence-line monitoring system under specified circumstances.

c) Requires an air district to, on a five-year basis, review the list of pollutants being measured and may revise the list of pollutants after considering specified information.

5) Requires an owner or operator of a refinery to conduct third-party audits, as specified.

6) Provides for more enhanced notice to communities, including that data generated by these systems is to be provided to the public within 24 hours in a publicly accessible and machine-readable format, as well as archived and made available to the public.

7) Requires an owner or operator of a refinery, within 24 hours of a fence-line system detecting an exceedance of a notification threshold (as specified) of any measured pollutant, to initiate a root cause analysis to locate the cause of the exceedance and to determine appropriate corrective action.

a) The owner or operator of the refinery must prepare and submit a report to the district and post online within fourteen days of the exceedance explaining the root cause and corrective action performed by the facility.

b) The root cause analysis must include a visual inspection to determine the cause of the exceedance, as specified.

8) Provides that a fence-line monitoring system approved by the district presumptively yields credible evidence that may be used to establish whether a refinery has violated or is in violation of any plan, order, permit, rule, regulation, or law.

a) Allows a covered facility to rebut this presumption by providing evidence that the covered facility was not the source of pollution that triggered the fence-line monitoring system.

9) Requires, no later than July 1, 2027, implementing air districts to provide notice to the appropriate policy committees of the Legislature regarding their progress towards meeting the January 1, 2028 implementation date in the bill.

Background

1) *Living near a petroleum refinery*. California is home to nineteen refineries, which separate crude oil into a wide array of petroleum products through a series of physical and chemical separation techniques. The refining industry supplies several widely used everyday products including petroleum gas, kerosene, diesel fuel, motor oil, asphalt, and waxes.

   According to the American Lung Association's State of the Air 2022 Report Card, all nineteen of those refineries are in counties with a failing grade for PM pollution, and eighteen of the nineteen are in counties with failing grades for ozone pollution as well. According to the US EPA's EJScreen tool, the communities within 5 miles of those refineries are on average over 70% people of color, with some being as high as 95% people of color. Taken together, these communities (according to the CalEnviroScreen 4.0 tool) are, on average, among the most pollution-burdened communities in the state.

   In short, the air pollution from refineries is predominantly harming people of color in communities that currently suffer the greatest air pollution harms in the state. The racial inequity of that pollution burden deserves particular attention when evaluating changes to pertinent laws and regulations, such as this bill.

2) *Implementation across three air districts*. The nineteen refineries in the state are clustered in three regions, each of which is regulated by a different air district. The South Coast Air Quality Management District (SCAQMD) regulates the ten refineries in the greater Los Angeles region, the Bay Area Air Quality Management District (BAAQMD) regulates the five refineries in the San Francisco Bay area, and the San Joaquin Valley Air Pollution Control District (SJVAPCD) regulates the four refineries in the Central Valley. Each of these three air districts has established a rule implementing the requirements of AB 1647, though the rules and processes differ between all three.

   In their 2022 report, Crossing the Fenceline, Earthjustice (a co-sponsor of this bill) raises concerns with the implementation of AB 1647 in all three air districts. Briefly, the number of pollutants required to be measured ranges from 5 to 20 between districts; only BAAQMD specifically includes biorefineries in its rule; only SJVAPCD requires a root cause analysis or corrective action; and

all three programs have at various times exempted certain facilities, despite no such exemptions being provided for in AB 1647.

The Earthjustice report states, "Without meaningful statewide oversight, each air district has created deeply flawed fenceline monitoring programs with massive loopholes that benefit oil companies and negate many of the community protections that the legislation envisioned." Generally speaking, the requirements imposed in this bill either use or build upon the most health-protective of the three implementing rules for each feature of the program. In this way, the bill seeks to use solutions developed by some air districts to shore up the weaknesses in the programs developed by others.

Comments

1) *Purpose of Bill.* According to the author, "Refining is an inherently dangerous process and a significant source of air pollution. Incidents at these refineries- including explosions, fires, and flaring events- threaten nearby community members, first responders, and refinery workers. These communities, which are often low-income, communities of color, are already at a higher risk for asthma, cancer, birth defects, and neurological and cardiovascular damage among other conditions, and these risks are amplified the closer a person lives to a refinery. Assembly Bill 1647 (Muratsuchi, 2017), which created the Refinery Fence-line and Community Air Monitoring Program, sought to create statewide standards and practices to detect air pollution at refinery fence-lines, notify community members when there were dangerous levels of pollution, and aggregate the fence-line air monitoring data online for public access. It has been six years since the passage of AB 1647, and there are serious deficiencies in the implementation of the program. These flaws include an inconsistent implementation by air quality management districts, a failure to include a mechanism to ensure refineries notify the public of detected emission exceedances and follow-up to locate and mitigate sources of toxic emission, and numerous other shortcomings in public notification. Senate Bill 674 will address these flaws and fortify the statewide standard for the refinery fence-line air monitoring program to ensure that adequate noxious pollutants are measured, and that best practices and technologies are deployed in order to protect the health and wellbeing of refinery fence-line communities."

2) *A technical bill for a technical issue.* This bill takes the roughly one-page text of AB 1647 and expands it to over five pages by including prescriptive details on chemicals to monitor, technical capabilities of monitoring equipment, and data quality assurances, among other things. Typically the Legislature does not

codify this level of detail—and indeed even here some details may be better left to the implementing regulations of the affected air districts—but given the problem the author is seeking to solve, the approach is reasonable here.

It is worth emphasizing that the provisions of this bill come from a report based on five years of communities and advocates engaging with the implementing air districts. AB 1647 took the more traditional approach of broadly delegating technical decision making to the regulators. This bill gets into the weeds not because the author is seeking a "one size fits all" solution, but because the last five years of implementing AB 1647 have shown that doing so may be necessary to achieve the desired policy outcomes.

3) *Whose fencelines are monitored?* Amendments taken on the Assembly Floor refine the scope of the bill to "covered facilities," defined as either, "A refinery that produces gasoline, diesel fuel, aviation fuel, biofuel, lubricating oil, asphalt, petrochemical feedstock, or other similar products through the processing of crude oil or alternative feedstock, redistillation of unfinished petroleum derivates, cracking, or other processes; or a facility with operations related to a refinery, including storage tanks, sulfur recovery plants, port terminals, electrical generation plants, and hydrogen plants, that is located on a property *that is contiguous or adjacent to the refinery*." (Emphasis added). A question arises as to how "contiguous or adjacent" is intended to apply.

   It is the intent of the author to include any covered facility that expands the fence-line of the facility, but not to require further monitoring for anything that falls entirely within the existing refinery footprint. This clarification could be important in certain cases, such as—for example—a hydrogen plant that is entirely within a refinery. Any fence-line monitoring around the refinery should capture any pollutants released from the plant contained within it, so it would be of negligible value to monitor air pollutants along the fence-line of the hydrogen plant.

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

SUPPORT: (Verified 8/21/24)

350 Bay Area Action
350 Conejo / San Fernando Valley
Action Now
Active San Gabriel Valley
Air Watch Bay Area

Asian Pacific Environmental Network
Azul
Bay Area-system Change Not Climate Change
Biofuelwatch
Breast Cancer Prevention Partners
California Communities Against Toxics
California Environmental Justice Alliance
California Environmental Justice Alliance Action
California Environmental Voters
California Interfaith Power & Light
Center for Biological Diversity
Center for Climate Change and Health
Center on Race, Poverty and The Environment
Central California Environmental Justice Network
Central Valley Air Quality Coalition
Clean Water Action
Cleanearth4kids.org
Climate Action California
Climate Reality Project, San Fernando Valley
Coalition for Clean Air
Comite Pro Uno
Communities for A Better Environment
Del Amo Action Committee
Democrats of Rossmoor
Drexel University College of Arts and Sciences
Earthjustice
East Yard Communities for Environmental Justice
Ella Baker Center for Human Rights
Environmental Defense Fund
Environmental Working Group
Good Neighbor Steering Committee
Good Neighbor Steering Committee of Benicia
Indivisible CA Statestrong
Interfaith Climate Action Network of Contra Costa County
Mono Lake Committee
Natural Resources Defense Council
Northern California Recycling Association
Open Environmental Data Project
Physicians for Social Responsibility - Los Angeles
Regional Asthma Management and Prevention

Richmond - North Richmond - San Pablo AB 617 Steering Committee
Sacramento Area Congregations Together
San Francisco Baykeeper
Sierra Club California
Sunflower Alliance
Sustainable Rossmoor
Torrance Refinery Action Alliance
Union of Concerned Scientists
West Berkeley Alliance for Clean Air and Safe Jobs

OPPOSITION: (Verified 8/21/24)

California Alliance of Small Business Assoc.
California Business Roundtable
California Chamber of Commerce
California Fuels and Convenience Alliance
California Hispanic Chambers of Commerce
California Independent Petroleum Association
California Manufacturers & Technology Association
Carson Chamber of Commerce
Central Valley Business Federation
Central Valley Latino Mayors and Elected Officials Coalition
Colab Ventura County
Econalliance
Garden Grove Chamber of Commerce
Greater Bakersfield Chamber of Commerce
Greater Coachella Valley Chamber of Commerce
Greater Conejo Valley Chamber of Commerce
Harbor Association of Industry & Commerce
Industrial Association of Contra Costa County
Inland Empire Economic Partnership
Kern Citizens for Energy
Kern County Taxpayers Association
Latin Business Association
Long Beach Area Chamber of Commerce
Los Angeles Area Chamber of Commerce
Los Angeles County Business
Los Angeles Latino Chamber of Commerce
Moorpark Chamber of Commerce
Murrieta Chamber of Commerce
Orange County Business Council

Port Hueneme Chamber of Commerce
Santa Barbara County Taxpayers Association
Santa Paula Chamber of Commerce
Si Se Puede
South Bay Chambers of Commerce
Torrance Area Chamber of Commerce
Valley Industry and Commerce Association
Ventura County Taxpayers Association
West Ventura County Business Alliance
Western Independent Refiners Association
Western States Petroleum Association

ARGUMENTS IN SUPPORT: According to a coalition of environmental justice, health, civil rights, and environmental and equity organizations in support, "…The goal of AB 1647 was to create a statewide standard for refinery fence-line monitoring, and to achieve this objective, AB 1647 tasked regional air quality districts − the agencies responsible for regulating refinery emissions - with developing the rules that would dictate the program in their respective jurisdictions. It has been almost six years since the passage of AB 1647 and it is clear that there are serious flaws in the implementation of the statute's requirements.

"SB 674 will address and remedy these flaws by requiring refineries, as part of their fence-line monitoring obligations, to: conduct third-party audits of their monitoring systems; identify the root cause of excess emissions and perform corrective action; ensure proper facility coverage; provide adequate public notification when emission thresholds are exceeded; and make data from the fence-line monitors readily available to the public."

ARGUMENTS IN OPPOSITION: According to a coalition of business, and petroleum groups in opposition, "Refineries are unique, critical infrastructure, and like any other business, should only be responsible for monitoring and managing emissions from operations under their ownership and control. SB 674 expands the existing fence line monitoring program beyond the property boundary of a refinery and would now require that refineries install, pay for, and respond to fence line monitors on facilities that are not even owned or operated by the refinery. By forcing refineries to pay for another companies' costs, SB 674 will only likely increase the cost of refining transportation fuel in California, which may ultimately be borne by California drivers.

"… Unfortunately, SB 674 requires the entire perimeter of a refinery to have fence

line monitors installed regardless of site-specific conditions, topography, or even if there are no receptors downwind of the emission source. This redundant and unnecessary requirement in SB 674 could lead to higher costs for refinery operations and higher costs for California drivers."

GOVERNOR'S VETO MESSAGE:

This bill would make several changes to the refinery fence-line air monitoring program, including expanding the program to include monitoring for biofuel refineries and additional pollutants, applying the program to contiguous or adjacent refinery-related facilities, increasing the standards for data quality, and providing new processes for notifying local communities.

California has some of the most stringent refinery air monitoring and pollution standards in the world. These standards have been developed and implemented by the state's local air quality management districts, and each of these districts possess the authority and technical expertise to update, expand and modify these standards according to the best available science.

While I share the author's desire to protect communities from air pollution, local air quality management districts are already carrying out the necessary action to do just that. Additionally, because this bill mandates these districts to implement highly prescriptive measures, it might be found to require state reimbursement of implementation costs at a time when we just recently closed a $44.9 billion shortfall for the 2024-25 fiscal year. There is no state funding identified or available in the state budget to support these efforts.

For these reasons, I cannot sign this bill.

ASSEMBLY FLOOR: 47-15, 7/1/24
AYES: Addis, Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Wendy Carrillo, Connolly, Mike Fong, Friedman, Gabriel, Garcia, Grayson, Haney, Hart, Holden, Irwin, Jackson, Kalra, Lee, Low, Lowenthal, Maienschein, McCarty, McKinnor, Muratsuchi, Ortega, Pacheco, Papan, Pellerin, Petrie-Norris, Reyes, Luz Rivas, Santiago, Schiavo, Ting, Ward, Wicks, Wilson, Wood, Zbur, Robert Rivas
NOES: Alanis, Chen, Megan Dahle, Davies, Dixon, Essayli, Flora, Gallagher, Hoover, Lackey, Jim Patterson, Joe Patterson, Sanchez, Ta, Wallis

NO VOTE RECORDED: Bains, Juan Carrillo, Cervantes, Gipson, Jones-Sawyer, Mathis, Stephanie Nguyen, Quirk-Silva, Ramos, Rendon, Rodriguez, Blanca Rubio, Soria, Valencia, Villapudua, Waldron, Weber

Prepared by: Eric Walters / E.Q. / (916) 651-4108
8/21/24 16:12:36

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

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

UNFINISHED BUSINESS

Bill No: SB 819
Author: Eggman (D)
Amended: 8/20/24
Vote: 21

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

SENATE APPROPRIATIONS COMMITTEE: 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: 51-0, 8/30/24 – Roll call not available

SUBJECT: Medi-Cal: certification

SOURCE: Author

DIGEST: This bill clarifies existing Medi-Cal provider enrollment requirements so that a clinic operated by a county, which is exempt from licensure, is treated the same as a licensed clinic in being able to add an intermittent clinic site or an affiliated mobile health care unit operating as an intermittent clinic without needing to separately enroll the intermittent clinic or mobile health care unit as a separate provider.

Assembly Amendments recast and revise the provisions of this bill to incorporate technical assistance provided by the Department of Health Care Services.

ANALYSIS:

Existing law:

1) Licenses and regulates clinics, including primary care clinics and specialty clinics, by the California Department of Public Health (CDPH). [HSC §1200, et seq.]

2) Defines a primary care clinic as either a "community clinic," which is required to be operated by a non-profit corporation and to use a sliding fee scale to charge patients based on their ability to pay, or a "free clinic," which is also required to be operated by a non-profit but is not allowed to directly charge patients for services rendered or for any drugs, medicines, or apparatuses furnished. [HSC §1204]

3) Exempts various types of clinics from licensure and regulation by CDPH, including clinics operated by the federal government and any primary care clinic operated by the state, counties, or cities. [HSC §1206 et seq., §1206(b)]

4) Exempts from licensure by CDPH an intermittent clinic that is operated by a licensed primary care community clinic on separate premises from the licensed clinic and is only open for limited services of no more than 40 hours each week. However, an intermittent clinic operated under this exemption is still required to meet all other requirements of law, including administrative regulations and requirements, pertaining to fire and life safety. [HSC §1206(h)]

5) Enacts the Mobile Health Care Services Act, which permits a mobile health unit, as defined, to operate as an adjunct to a licensed health facility or to a licensed clinic, or as an independent-freestanding clinic, as specified. Prohibits any person, political subdivision of the state, or governmental agency from operating a mobile service unit without first obtaining a license or an addition to existing licensure unless exempt from licensure. [HSC §1765.101 et seq., §1765.125]

6) Establishes the Medi-Cal program as California's Medicaid program, administered by the Department of Health Care Services (DHCS), which provides comprehensive health care coverage for low-income individuals. [WIC §14000, et seq.]

7) Requires specified health care providers seeking to be a Medi-Cal provider to submit a complete application package for enrollment, continuing enrollment, or enrollment at a new location or a change in location (referred to as Medi-Cal Provider Enrollment):

   a) A provider that currently is not enrolled in the Medi-Cal program;

   b) A provider applying for continued enrollment, upon written notification from DHCS that enrollment for continued participation of all providers in a specific provider of service category or subgroup of that category to which the provider belongs will occur; and,

   c) A provider not currently enrolled at a location where the provider intends to provide services, goods, supplies, or merchandise to a Medi-Cal beneficiary. [WIC §14043.26].

8) Exempts an applicant or provider from needing to enroll in the Medi-Cal program as a separate provider if the applicant is an intermittent clinic that is exempt from licensure, or is an affiliated mobile health care unit that is licensed or approved by CDPH, as specified, and is operated by a licensed primary care clinic and for which the intermittent site or mobile health unit the licensed primary care clinic directly or indirectly provides all staff, protocols, equipment, supplies, and billing services. Requires the licensed primary care clinic operating the applicant to notify the department of its separate locations, premises, intermittent sites, or mobile health care units. [WIC §14043.15(e)]

This bill:

1) Revises a provision of law exempting intermittent clinic sites and affiliated mobile health care units from needing to enroll in the Medi-Cal program as a separate provider if it is operated by a licensed primary care clinic that directly or indirectly provides all staffing, protocols, equipment, supplies, and billing services, so that this provision of law now exempts applicants from needing to enroll in Medi-Cal as a separate provider if all of the following conditions are met:

   a) The applicant or provider is one of the following:

      i) An intermittent that is exempt from clinic licensure under existing law, as specified; or

ii) An affiliated mobile health care unit that is licensed or approved by CDPH, as specified, and qualifies as exempt from licensure under the intermittent clinic provision of existing law; and,

b) The applicant or provider is operated by, and all staffing, protocols, equipment, supplies, and billing services are provided, directly or indirectly, by one of the following:

i) A licensed primary care clinic;

ii) A clinic exempt from licensure because it is operated by a county or other governmental agency, as specified.

2) Makes legislative findings and declarations that this bill clarifies the intent of existing law to express the same exemption from the Medi-Cal enrollment procedures for intermittent sites and mobile health care units operated by county clinics exempt from licensure.

Comments

1) *Author's statement.* According to the author, "this bill clarifies the law to ensure that county-operated primary care clinics can operate mobile health care units as extensions of their primary care clinics without needing to separately enroll into Medi-Cal. While the longstanding practice and understanding of the law is that county clinics, which are not required to be licensed by CDPH, are treated equally under the law to primary care clinics that are licensed by CDPH, this understanding was recently brought into question when DHCS denied a Medi-Cal enrollment application to a mobile clinic operated by San Joaquin County (SJC) on the basis that SJC's parent clinic was exempt from licensure. While that issue was resolved in favor of SJC, this bill will prevent this problem from happening to other counties."

2) *Background on problem addressed by this bill.* The author states that this issue was brought to her office's attention by SJC, which acquired a one-exam-room mobile clinic with federal America Rescue Plan funding in 2019. SJC operates San Joaquin Health Centers primary care clinics in two locations, and planned to use the mobile clinic as an extension of its French Camp clinic location in order to access high-risk, low access communities. SJC passed Facility Site Review, which was required and facilitated by Health Plan of San Joaquin and Health Net, and in April of 2022, submitted an application to DHCS to have the mobile clinic enrolled into Medi-Cal. SJC also applied to the Centers for Medicare and Medicaid Services for Medicare enrollment, which it received,

but the Medi-Cal license was denied. According to SJC, San Joaquin Health Centers is exempt from licensure as a county agency, and "a non-licensed clinic cannot enroll intermittent or mobile clinics into Medi-Cal." However, on appeal, a hearing officer overruled DHCS' grounds for denying SJC's application to enroll their mobile clinic in Medi-Cal, and DHCS ended up enrolling the mobile clinic with an effective date retroactive to the application submission date of April 28, 2022.

3) *Background on intermittent clinics.* Under existing law, a licensed primary care clinic is permitted to operate an off-site clinic for up to 40 hours per week, without obtaining a separate license for these offsite locations. Licensed primary care clinics include community clinics and free clinics, but do not include a number of clinic settings that are exempt from licensure, such as county-operate clinics or tribal clinics. According to CDPH, only clinics licensed by CDPH are captured by the Electronic Licensing Management System, so intermittent clinics are not tracked by CDPH. There are currently 1,388 licensed primary care clinics (1,339 community clinics and 49 free clinics). However, intermittent clinics report to the Provider Enrollment Division at DHCS, which reports that there are currently 795 listed intermittent clinics.

   Under the Mobile Health Care Services Act (MHCSA), a mobile unit is a special purpose commercial coach, as specified, that is one of the following: (a) it is approved by CDPH as a service of a licensed health facility, as defined; (b) it is approved by CDPH as a service of a licensed clinic, as defined; (c) it is licensed by CDPH as a clinic, as defined; or, (d) it is licensed as an "other" type of approved mobile unit by CDPH, with "other" types limited to mobile units performing services within new health facility or clinic licensure categories created after the effective date of the MHCSA (which became effective in 1994). A mobile unit is permitted to be operated as an adjunct to a licensed health facility or to a licensed clinic, or as an independent-freestanding clinic. However, the MHCSA also states that "no person, political subdivision of the state, or governmental agency shall operate a mobile service unit without first obtaining a license or an addition to existing licensure *unless exempt from licensure under Section 1206.*" Because county-operated clinics are exempt from licensure under HSC §1206(b), counties are permitted to operate mobile units as additional services to their license-exempt clinics.

Related/Prior Legislation

SB 779 (Stern, Chapter 505, Statutes of 2023) added intermittent clinics that are exempt from licensure to an existing requirement that licensed clinics file an annual report to the Department of Health Care Access and Information (HCAI) with certain specified information for the previous calendar year. SB 779 also creates new reporting requirements for all primary care clinics, including intermittent clinics, to report various types of data to HCAI, including all mergers and acquisitions, a labor report, a workforce development report, and a report of quality and equity measures.

AB 2204 (Gray**,** Chapter 279, Statutes of 2018) extended the limit on the number of hours an intermittent primary care clinic can operate, from 30 to 40 hours per week, and still be exempt from licensure.

AB 2428 (Gonzalez Fletcher, Chapter 762, Statutes of 2018) allowed a federally qualified health center (FQHC) or rural health clinic (RHC) that adds an additional physical plant to its primary care license to elect to have the Medi-Cal reimbursement rate for each new plant be billed at and reimbursed at the same rate as the FQHC or RHC. Exempted from the Medi-Cal provider enrollment process a primary care clinic with additional locations added to its clinic license from the requirement to separately enroll the additional locations as separate providers, if the primary care clinic has notified the DHCS of its additional locations.

AB 2053 (Gonzalez, Chapter 639, Statutes of 2016) required CDPH, upon written notification by a licensed primary care clinic or an affiliate clinic that it is adding an additional physical plant maintained and operated on separate premises, to issue a single consolidated license to the clinic.

AB 1130 (Gray, Chapter 412, Statutes of 2015) expanded the licensure exemption for intermittent clinics that are operated by licensed clinics on separate premises by permitting these intermittent clinics to be open for up to 30 hours per week, instead of only 20 hours per week.

AB 941 (Wood, Chapter 502, Statutes of 2015) expanded a licensure exemption for tribal clinics, which were previously exempted if located on tribal land, by exempting tribal clinics regardless of the location of the clinic, if the clinic is operated under a contract with the United States pursuant to the Indian Self-Determination and Education Assistance Act.

SB 442 (Ducheny, Chapter 502, Statutes of 2010) streamlined the administrative requirements for a clinic corporation to apply for licensure for an affiliate primary care clinic.

SB 937 (Ducheny, Chapter 602, Statutes of 2003) revised provisions relating to the licensure and operation of primary care clinics. Permitted a primary care clinic to add a service or remodel a site without first having to apply for a new license from CDPH and required CDPH to issue an affiliate license to a primary care clinic to allow it to open a clinic at an additional site, under specified conditions.

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

According to the Assembly Appropriations Committee, there are no state costs associated with this bill.

SUPPORT: (Verified 8/28/24)

California Association of Public Hospitals and Health Systems
County Health Executives Association of California
San Joaquin County

OPPOSITION: (Verified 8/28/24)

None received

ARGUMENTS IN SUPPORT: The California Association of Public Hospitals and Health Systems (CAPH) states in support that many public health care systems operate an extensive network of Federally Qualified Health Centers to meet the ambulatory care needs of their patients. As public entities, public health care system clinics are exempt from CDPH licensing requirements that apply to private community clinics. To help increase access to care, current law allows FQHCs to operate intermittent and mobile clinics without needing to separately enroll them into Medi-Cal. This bill clarifies existing law that clinics exempt from licensure are authorized to operate intermittent sites or mobile health care units. San Joaquin County also supports, stating that this bill seeks to clarify the historical understanding that license-exempt clinics operated by counties should be treated the same as other primary care clinics.

Prepared by: Vincent D. Marchand / HEALTH / (916) 651-4111
8/30/24 17:27:06

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

SENATE RULES COMMITTEE
Office of Senate Floor Analyses
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UNFINISHED BUSINESS

Bill No: SB 892
Author: Padilla (D), et al.
Amended: 8/19/24
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 14-0, 4/9/24
AYES: Dodd, Wilk, Alvarado-Gil, Archuleta, Bradford, Glazer, Jones, Nguyen, Ochoa Bogh, Padilla, Portantino, Rubio, Seyarto, Smallwood-Cuevas
NO VOTE RECORDED: Ashby, Roth

SENATE JUDICIARY COMMITTEE: 11-0, 4/16/24
AYES: Umberg, Wilk, Allen, Ashby, Caballero, Durazo, Laird, Min, Niello, Stern, Wahab

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/16/24
AYES: Caballero, Jones, Ashby, Becker, Bradford, Seyarto, Wahab

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

ASSEMBLY FLOOR: 75-0, 8/28/24 - See last page for vote

SUBJECT: Public contracts: automated decision systems: procurement standards

SOURCE: Author

DIGEST: This bill requires the California Department of Technology (CDT) to develop and adopt regulations to create an automated decision system (ADS) procurement standard, as specified, and prohibits a state agency from procuring ADS, entering into a contract for ADS, or any service that utilizes ADS, until CDT has adopted regulations creating an ADS procurement standards, as specified.

Assembly Amendments among other things, require CDT to develop and adopt regulations to create an ADS procurement standard and, in developing that standard, to consider principles and industry standards addressed in relevant publications, as specified; requires CDT, in developing the ADS procurement standard to, among other things, consult with the California Privacy Protection Agency (CPPA); and, commencing January 1, 2027, prohibits a state agency from procuring an ADS, entering into a contract for an ADS, or entering into a contract for any service that utilizes an ADS, prior to the adoption of regulations by CDT, as specified.

ANALYSIS:

Existing law:

1) Requires all contracts for the acquisition of information technology (IT) goods and services related to IT projects to be made by or under the supervision of the CDT, as specified.

2) Governs, through the Administrative Procedures Act (APA), the procedure for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law.

3) Requires CDT, in coordination with other interagency bodies, to conduct, on or before September 1, 2024, and annually thereafter, a comprehensive inventory of all high-risk ADS that have been proposed for use or are being used, developed, or procured by state agencies, as specified.

4) The California Consumer Privacy Act of 2018 (CCPA) grants to a consumer various rights with respect to personal information, as defined, that is collected by a business, as defined, including the right to request that a business delete personal information about the consumer that the businesses has collected from the consumer, as specified.

This bill:

1) Defines “artificial intelligence” or “AI” to mean an engineered or machine-based system that varies in its level of autonomy and that can, for explicit or implicit objectives, infer from the input it receives how to generate outputs that can influence physical or virtual environments.

2) Defines “automated decision system” or “ADS” to mean a computational process derived from machine learning, statistical modeling, data analytics, or AI that issues simplified output, including a score, classification, or recommendation, that is used to assist or replace human discretionary decision-making and materially impacts natural persons. “ADS” does not include a spam email filter, firewall, antivirus software, identity and access management tools, calculator, database, dataset, or other compilation of data.

3) Requires CDT, to develop regulations related to the ADS procurement standard, and to consider principles and industry standards addressed in relevant publications, including, but not limited to, all of the following:

    a) The Blueprint for an AI Bill of Rights: Making Automated Systems Work for the American People (Blueprint), published by the White House Office of Science and Technology Policy in October 2022.
    b) The Artificial Intelligence Risk Management Framework (AI RMF 1.0), released by the National Institute of Standards and Technology (NIST) in January 2023.
    c) The Risk Management Framework for the Procurement of Artificial Intelligence (RMF PAIS 1.0), authored by the AI Procurement Lab and the Center for the Inclusive Change in 2024.
    d) The Advancing Governance, Innovation, and Risk Management for Agency Use of Artificial Intelligence Memorandum, published by the Executive Office of the President, Office of Management and Budget, dated March 28, 2024.

4) Requires the ADS procurement standard to include all of the following:

    a) A detailed risk assessment procedure, as specified.
    b) Methods for appropriate risk controls between the state agency and ADS vendor, including, but not limited to, reducing the risk through various mitigation strategies, eliminating the risk, or sharing the risk.
    c) Adverse incident monitoring procedures.
    d) Identification and classification of prohibited use cases and applications of ADS that the state shall not procure.

e) A detailed equity assessment, as specified.
f) An assessment that analyzes the level of human oversight associated with the use of ADS.
g) Adherence to data minimization standards, including that an ADS vendor shall only use information provided by or obtained from an agency to provide the specific service authorized by the agency. Further, the data collected may not be used for training of proprietary vendor or third-party systems.

5) Requires CDT, in developing the ADS procurement standard, to do all of the following:

a) Collaborate with organizations that represent state and local government employees and industry experts, including, but not limited to, public trust and safety experts, community-based organizations, civil society groups, academic researchers, and research institutions focused on responsible ADS procurement, design, and deployment.
b) Consult with the California Privacy Protection Agency (CPPA).
c) Solicit public comment on the ADS procurement standard.

6) Requires CDT to adopt regulations pursuant to this bill, as specified, and requires that the regulations adopted by CDT pursuant to this bill do not contradict with either of the following:

a) Regulations adopted by the CPPA, as specified.
b) Statewide legislation that establishes a regulatory framework governing the development and deployment of ADSs.

7) Requires CDT, commencing January 1, 2026, and annually thereafter, to update both of the following: the ADS procurement standard, and regulations adopted pursuant to this bill.

8) Prohibits a state agency, commencing January 1, 2027, from entering into a contract for an ADS, or entering into a contract for any service that utilizes an ADS, prior to the adoption of regulations by CDT, as specified.

9) Authorizes a state agency, commencing January 1, 2027, to enter into a contract for an ADS, or a service that utilizes ADS, only after CDT has adopted regulations pursuant to this bill and only if the contract includes a

related clause that, among other things, provides a completed risk assessment of the relevant ADS, as specified.

10) Specifies that the above requirements to do not apply to projects approved before January 1, 2027, through the annual budget process.

Background

Author Statement. According to the author's office, "artificial intelligence stands to have the largest influence on society since the dawn of the Digital Age. It has the potential to provide incredible societal benefits if harnessed appropriately, but threatens to pose terrible consequences if safeguards are not put in place as it becomes integrated into everyday life. The research and guardrails around generative AI services will become the standard that guides the technology as it proliferates throughout every sector of our economy. The rapid growth of this technology's capability over even just the past year is clear warning, we must set these safety parameters now."

Navigating the Artificial Intelligence Landscape. In the rapidly evolving landscape of technology, AI stands at the forefront, bringing a new era of innovation and application across various sectors. AI, defined broadly, is the capability of machines to perform tasks that typically require human intelligence, encompasses technologies that can process information, learn, reason, recognize patterns, and make decisions. The transformative potential of AI is vast, affecting disparate industries from healthcare to transportation, and its development is a subject of both enthusiasm and scrutiny. Given the technology's capacity to revolutionize the way we live and work, governments around the world and across the nation are seeking to nurture its growth while addressing the ethical, privacy, and security concerns it raises.

The Blueprint for an AI Bill of Rights: Making Automated Systems Work for the American People. In October of 2022, the White House's Office of Science and Technology Policy released the *Blueprint for an AI Bill of Rights* (Blueprint) identifying five principles that should guide the design, use, and deployment of automated systems to protect the American public in the age of AI. The Blueprint is intended to be a guide for a society to protect all people from AI-related threats.

The five identified principles include "Safe and Effective Systems." The Blueprint provides that automated systems should be developed with consultation from diverse communities, stakeholders, and domain experts to identify concerns, risks,

and potential impacts of the system. Systems should undergo pre-deployment testing, risk identification and mitigation, and ongoing monitoring that demonstrate they are safe and effective based on their intended use, mitigation of unsafe outcomes including those beyond the intended use, and adherence to domain-specific standards. Outcomes of these protective measures should include the possibility of not deploying the system or removing a system from use.

National Institute of Standards and Technology's Artificial Intelligence Risk Management Framework (AI RMF 1.0). NIST was founded in 1901 and is now part of the U.S. Department of Commerce. NIST is one of the nation's oldest physical science laboratories. Today, NIST measurements support the smallest of technologies to the largest and most complex of human-made creations – from nanoscale devices to tiny that tens of thousands can fit on the end of a single human hair up to earthquake-resistant skyscrapers and global communication networks.

Risk Management Framework for the Procurement of AI Systems (RMF PAIS 1.0). In 2024, the AI Procurement Lab (an independent, woman-owned, non-profit organization that advises government organizations) and the Center for Inclusive Change (a woman-owned small business that contributes AI related research and education programs) released their joint RMF PAIS. The two organizations worked together to create the framework which primarily focuses on risk management for high-risk systems. More specifically, given that high-risk systems can produce great advantages in terms of efficiency gains and consistency in decision-making output, they also have the potential to impact a person's safety, civil rights, and/or fundamental human rights and dignity.

California Privacy Protection Agency Actions. In March of this year, the California Privacy Protection Agency (CPPA) voted to move forward with draft ADS technology and risk assessment regulations regarding how businesses use AI and collect the personal information of consumers, workers, and students. According to a March 13 article by CalMatters, "[t]he proposed rules seek to create guidelines for the many areas in which AI and personal data can influence the lives of Californians: job compensation, demotion, and opportunity; housing, insurance, health care, and student expulsion. For example, under the rules, if an employer wanted to use AI to make predictions about a person's emotional state or personality during a job interview, a job candidate could opt out without fear of discrimination for choosing to do so."

Administrative Procedures Act and California's Regulatory Processes. The Office of Administrative Law (OAL) is responsible for ensuring that California state agencies comply with the rulemaking procedures and standards set forth in California's Administrative Procedures Act (APA). A "regulation" is any rule, regulation, order or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it.

When adopting regulations, every department, division, office, officer, bureau, board or commission in the executive branch of the California state government must follow the rulemaking procedures in the APA and regulations adopted by the OAL, unless expressly exempted by statute from some or all of these requirements.

The APA requirements are designed to provide the public with a meaningful opportunity to participate in the adoption of regulations or rules that have the force of law by California state agencies and to ensure the creation of an adequate record for the OAL and judicial review.

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

According to the Assembly Appropriations Committee, costs (General Fund) to CDT for additional staff and consultants. In the first year of implementation, CDT reports costs of $245,000 for one temporary program manager position, $2 million for external consultants, and $500,000 in GenAI talent practices to train state employees. In subsequent years, CDT anticipates costs of $1.4 million for six permanent positions, $1.5 million for external consultants, and $300,000 in GenAI talent practices. CDT notes it is challenging to hire GenAI talent in the public sector because salaries are often two or three times higher in the private sector. As a result, CDT reports, its fiscal estimates for this bill include significant funding for external consultants, and actual costs for consultants may be higher if the state does not provide sufficient funding for training of state employees.

Costs (General Fund) to the Department of General Services (DGS) for additional staffing. DGS anticipates costs of %510,000 annually ongoing for three positions to consult with CDT, implement procurement policy and procedures, conduct outreach and training, develop new procurement reporting functionality, and revise Fi$Cal to accommodate information gathering and reporting.

Unknown, potentially significant fiscal impacts if the bill's moratorium on state agency procurement and contracting for ADSs is imposed. Under the bill, a moratorium on state agency contracting and procurement will be imposed

beginning January 1, 2027, unless CDT's regulations are enacted by that date. If the moratorium is imposed, the state may experience some cost savings to the extent ADS procurement and contracting (and associated costs) are paused, but may also experience significant costs if services are disrupted or agencies' long-term plans cannot proceed without ADSs. If agencies must discontinue use of currently operational ADSs when their contracts expire during the moratorium, disruption of services and related costs may be much more significant.

Costs (General Fund, special funds) of an unknown but significant amount to state agencies once ADS procurement standards are implemented. DGS reports there may be an overall increase in contracting costs due to the new requirements and risk associated with the bill. According to DGS, the cost for a contractor to do business with the state in compliance with this bill may increase and contractors typically pass these costs on to the state. Additionally, DGS anticipates that adding more steps in the procurement process will increase workload to affected agencies throughout the state.

SUPPORT: (Verified 8/27/24)

AI Procurement Lab
American Federation of Musicians
American Federation of Musicians, Local 7
Center for Inclusive Change
City of Long Beach
City of San Jose
Consumer Reports
Electronic Frontier Foundation
Greenlining Institute
San Diego Regional Chamber of Commerce
Secure Justice
Surveillance Resistance Lab
Techequity Collaborative

OPPOSITION: (Verified 8/27/24)

CalChamber
Computer & Communications Industry Association
TechCA
TechNet

ARGUMENTS IN SUPPORT: In support of the bill, the AI Procurement Lab writes that, "AI technology, procured and deployed responsibly, has the potential

to revolutionize the delivery of government services to Californians. However, this technology can also pose a significant risk to the safety, privacy, and civil rights of Californians. To protect and build trust, those procuring and using AI systems have a responsibility to add benefit and diligent risk analysis prior to procurement with exacting standards in risk management unique to the AI category. This is especially true when government officials sign contracts for administrative processes that perform tasks displacing their previously exercised discretion. An AI rsk management standard is also necessary when front-end government employees depend on the opaque logic of these systems that bears little or no resemblance to the reasoning processes of agency personnel."

ASSEMBLY FLOOR: 75-0, 8/28/24
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Chen, Connolly, Megan Dahle, Davies, Dixon, Essayli, Flora, Mike Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, Mathis, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Pacheco, Papan, 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: Bains, Cervantes, Ortega, Jim Patterson

ARGUMENTS IN OPPOSITION: Opponents of the bill write jointly that, "[a]fter January 1, 2027, SB 892 bans the state from procuring ADS until regulations are completed by the California Department of Technology (CDT) and any contact for ADS must comply with the regulations… This bill is NOT based on a risk-based approach and will limit and increase the cost of many low-risk projects that could be used to deliver efficiencies both internally, as well as improve service delivery for constituents by leveraging technology that utilizes automated decision systems. This ban supposes that any procurement of ADT is concerning which is simply not true."

Further, "SB 892 ties CDT regulations to the California Privacy and Protection Agency (CPPA) by stating that CDT regulations cannot be inconsistent with CPPA regulations and 'similarly comprehensive statewide legislation that establishes a regulatory framework governing the development and deployment of ADTs.' This requirement ties the hands of the state to make procurement

decisions and gives power over state procurement to state legislation and CPPA regulations that have not been developed with state services in mind. CPPA is an independent consumer privacy organization focused on private businesses' interaction with consumers. They are not an expert on state procurement and have no authority under Proposition 24 to regulate state procurement of technology or ADT. The Privacy Agency has not yet moved its risk assessment and ADMT regulations to formal rulemaking and even the Privacy Agency Board remains divided over the draft regulations."

Finally, "SB 892 also tries, we believe unsuccessfully, to exempt current ongoing projects by not applying the procurement ban to projects that are approved through state budget processes prior to January 1, 2027. As with all state contracting, state departments and agencies have specific rules and requirements depending on project type and scope and not every project is individually 'approved' through the annual budget process. This means SB 892 could impact projects the state is already exploring about how AI can be used to protect vulnerable road users; reduce roadway congestion; improve health-care facility inspections; improve language access to state services; and enhance customer service."

Click here to enter text. Prepared by: Brian Duke / G.O. / (916) 651-1530
8/29/24 10:23:39

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

SENATE RULES COMMITTEE SB 1103
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

UNFINISHED BUSINESS

Bill No: SB 1103
Author: Menjivar (D), et al.
Amended: 8/22/24
Vote: 21

SENATE JUDICIARY COMMITTEE: 9-2, 4/30/24
AYES: Umberg, Allen, Blakespear, Caballero, Dodd, Durazo, Laird, Min, Wiener
NOES: Wilk, Niello

SENATE FLOOR: 22-10, 5/21/24
AYES: Ashby, Atkins, Becker, Caballero, Durazo, Eggman, Gonzalez, Hurtado, Laird, Limón, McGuire, Menjivar, Min, Padilla, Roth, Rubio, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener
NOES: Alvarado-Gil, Dahle, Dodd, Grove, Jones, Nguyen, Niello, Ochoa Bogh, Seyarto, Wilk
NO VOTE RECORDED: Allen, Archuleta, Blakespear, Bradford, Cortese, Glazer, Newman, Portantino

ASSEMBLY FLOOR: 42-16, 8/30/24 – Roll call vote not available

SUBJECT: Tenancy of commercial real properties: agreements: building operating costs

SOURCE: Bet Tzedek
California Association for Micro Enterprise Opportunity
Inclusive Action for the City
Lawyers' Committee for Civil Rights of the San Francisco Bay Area
Public Counsel
Small Business Majority

DIGEST: This bill extends various protections and notice requirements for lease terminations or rent increases to qualified commercial tenants, and places transparency and proportionality requirements for fees a landlord may charge a qualified commercial tenant to recover building operating costs.

Assembly Amendments require that a qualified commercial tenant under the bill's various provisions must have provided the required written notice that they are a qualified commercial tenant to their landlord within the previous 12 months; require that a qualified commercial tenant provide this self-attestation annually after providing it before or upon the execution of the lease; specify that the bill's translation requirements apply to a lease or other tenancy for a non residential-zoned commercial space between a landlord and a qualified commercial tenant entered into on or after January 1, 2025; make various clarifying changes to the bill's provisions on permissible building operating costs; amend the requirement that a landlord provide supporting documentation for building operating costs within 30 days of a written request; specify that a landlord may not alter the method or formula used to allocate building operating costs in a way that increases the qualified commercial tenant's share of such costs unless the landlord provides the tenant written notice of the change with supporting documentation; rework the bill's enforcement provisions for its building operating costs requirements to provide for reasonable attorney's fees and costs at the court's discretion, and that three times the amount of actual damages and punitive damages are allowable only upon a showing that the landlord, lessor, or agent acted willfully or with oppression, fraud, or malice; allow that a district attorney, city attorney, or county counsel of the appropriate jurisdiction may seek injunctive relief for a violation of the building operating costs provisions; limit the application of the bill's building operating costs provisions to leases executed or commenced or renewed on or after January 1, 2025, a tenancy that is week to week, month to month, or other period less than a month, and to leases executed or commenced before January 1, 2025 that do not contain a provision regarding building operating costs; and incorporate technical amendments to avoid chaptering out issues with AB 3281 and SB 611.

ANALYSIS:

Existing law:

1) Provides that, in all periodic leases of land or tenements, the landlord may, upon giving notice in writing to the tenant as prescribed, change the terms of the lease upon the expiration of a period at least as long as the rental term, as specified. Provides that, in all leases of a residential dwelling or any interest in it, the landlord may increase the rent upon giving written notice to the tenant by delivering a copy to the tenant personally or by serving a copy by mail. IF the proposed rent increase is 10 percent or less than the rental amount charged during the 12 months prior, the notice of the rent increase must be delivered at least 30 days before the effective date of the increase. Provides that, if the proposed rent increase is greater than 10 percent of the rent charged during any

time in the 12 months prior, the notice must be delivered at least 90 days before the effective date of the increase. (Civ. Code § 827.)

2) Requires that any person engaged in a trade or business who negotiates a specified contract or agreement primarily in Spanish, Chinese, Tagalog, Vietnamese, or Korean deliver to the other party to the contract or agreement, or anyone who will be signing the agreement, and before the execution of that contract or agreement, a translation of the contract or agreement in the language in which the contract was negotiated. (Civ. Code § 1632(b).)
   a) Provides an exception to this requirement where the party with whom the person engaged in a trade or business is negotiating negotiates the terms of the contract or agreement through their own interpreter.
   b) Provides that the terms in the English version of the contract shall determine the rights and obligations of the parties, and that the translated version may only be used in court as evidence to show that no contract was entered into because of substantial differences in material terms between the English version and the translated version.
   c) Provides that an aggrieved person for a violation of this provision may rescind the contract or agreement, as provided.

3) Provides that, when residential real property is leased for an unspecified term, the lease is deemed renewed at the end of the term implied by law, unless one of the parties gives written notice to the other of their intent to terminate the tenancy. (Civ. Code § 1946.1.)

4) Provides that, if the residential tenant has resided in the dwelling for less than a year, the landlord must provide notice of termination at least 30 days prior to the termination, and that the landlord must provide notice of termination at least 60 days prior to the termination if the tenant has resided in the residential property for a year or more, except as provided. Provides that a tenant must provide notice of their intention to terminate their tenancy for a periodic tenancy at least as long as the term of the periodic tenancy. If the tenant has received a notice of termination from the owner, the tenant may provide a notice of termination for a period at least as long as the term of a periodic tenancy, if such termination occurs before the owner's date of termination. (Civ. Code § 1946.1(b)-(d).)

5) Defines a "microenterprise" as a sole proprietorship, partnership, limited liability company, or corporation that:

a) has five or fewer employees, including the owner, that may be part or full time employees;
b) generally lacks sufficient access to loans, equity, or other financial capital. (Bus. & Prof. Code § 18000(a).)

This bill:

1) Provides, for the purposes of its various statutory changes, the following definitions:
   a) "Qualified commercial tenant" as a tenant of commercial real property that meets both of the following:
      i. The tenant is a microenterprise, a restaurant with fewer than 10 employees, or a nonprofit organization with fewer than 20 employees.
      ii. The tenant provides the landlord with a written notice within the previous 12 months that it is a qualified commercial tenant and a self-attestation regarding the number of employees it has, and that the tenant provides this notice and attestation, unless the tenancy is from week to week, month to month, or other period less than a month, before or upon execution of the lease, and annually thereafter. Provides that the various requirements under the bill come into effect at such time this notice and attestation is provided to the landlord.
   b) "Nonprofit organization" as any private, nonprofit organization that qualifies under Section 501(c)(3) of the United States Internal Revenue Code of 1986.
   c) "Microenterprise" as the same meaning as the term is defined in Business and Professions Code Section 18000(a).
   d) "Commercial real property" as all real property in the state, except dwelling units, mobilehomes, and recreational vehicles, as specified.

2) Extends the requirement that a person engaged in a trade or business that negotiates a contract or agreement in Spanish, Chinese, Tagalog, Vietnamese, or Korean provide a translated version of the contract or agreement in the language in which it was negotiated to apply to a sublease, rental contract or agreement, or other term of tenancy entered into on or after January 1, 2025 for a commercial lease agreement for qualified commercial tenants covering a nonresidential-zoned commercial space.
   a) Specifies that the exception to this requirement for when the party negotiating with the person engaged in a trade or business negotiates through their own interpreter does not apply to the specified commercial lease agreements.

b) Specifies that only a qualified commercial tenant may rescind a contract for a violation of the translation requirement.

3) Extends the above-described requirement that a landlord provides notice of rent increases, as specified, to commercial real property leased by a qualified commercial tenant. Specifies that, for qualified commercial tenants of commercial real property, the landlord must include in the notice of increase information on the required notice provided in the above-described provisions. Specifies that such rent increases for a qualified commercial tenant are not effective until the required notice period has expired, and that, notwithstanding any other provision, a violation of these provisions by a landlord of commercial real property does not entitle the qualified commercial tenant to civil penalties.

4) Extends the above-described requirements that a tenancy is deemed renewed unless a party notifies the other party of their intent to terminate the tenancy to commercial real property by a qualified commercial tenant.

5) Extends the above-described requirement that a landlord provide advance notice, as specified, to a tenant for the termination of a tenancy to commercial real property for a qualified commercial tenant.
   a) Provides that a landlord of a commercial real property must include in a notice of termination information on the above-described notice requirements for qualified commercial tenants.

6) Provides that a landlord of commercial real property may not charge a qualified commercial tenant a fee to recover building operating costs, unless all of the following apply:
   a) The costs are allocated proportionately per tenant, by square footage or other method substantiated through supporting documentation provided by the landlord;
   b) The building operating costs have been incurred within the previous 18 months, or are reasonably expected to be incurred within the next 12 months, based on reasonable estimates;
   c) Before the execution of the lease, the landlord provides the prospective qualified commercial tenant a paper or electronic notice that the tenant may inspect any supporting documentation of building operating costs upon written request;
   d) Within 30 days of a written request, the landlord provides the qualified commercial tenant supporting documentation of building operating costs;

e) The costs do not include expenses paid by the tenant directly to a third party;
f) The costs do not include expenses for which a third party, tenant, or insurance reimbursed the landlord for the costs;

7) Specifies that a landlord of a commercial real property may not charge a fee to recover building operating costs from a qualified commercial tenant until the landlord provide the tenant supporting documentation.

8) Specifies that, during the course of a commercial tenancy, the landlord may not alter the method or formula used to allocate building operating costs to the qualified commercial tenant in a way that increases the qualified commercial tenant's share, unless the landlord provides written notice of the change with supporting documentation of the basis of the alteration.

9) Defines "supporting evidence," as a dated and itemized quote, contract, receipt, or invoice from a licensed contractor or provider of services that includes, but is not limited to, a tabulation showing how the costs are allocated among tenants proportionately, as required, and a signed and dated attestation by the landlord that the documentation and costs are true and correct.

10) Provides that, in an unlawful detainer action, ejectment, or other action to recover possession of the premises based on the tenant's failure to pay a fee to recover operating costs, a qualified commercial tenant may raise, as an affirmative defense, that the landlord did not comply with (6), above.

11) Provides that a landlord who violates (6), above, regarding charging fees for building operating costs, shall be subject to actual damages, and reasonable attorney's fees and costs at the court's discretion, and shall be subject to a civil penalty of three times the amount of actual damages proximately suffered by the qualified commercial tenant and punitive damages upon a showing that the landlord, lessor, or their agent has acted willfully or with oppression, fraud, or malice.

12) Provides that any waiver of a right in (6) through (11), above, is void as a matter of public policy.

13) Provides that the bill's provisions on building operating costs only apply to the following:

a) Leases executed or tenancies commenced or renewed on or after January 1, 2025;
b) A tenancy that is from week to week, month to month, or other period less than a month; and
c) Leases executed or tenancies commenced before January 1, 2025 that do not contain a provision regarding building operating costs.

14) Includes double-jointing amendments to avoid chaptering out issues with SB 611, which also amends Civil Code Section 1946.1, and AB 3281, which also amends Civil Code Section 1632.

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

SUPPORT: (Verified 8/30/24)

Bet Tzedek (co-source)
California Association for Micro Enterprise Opportunity (co-source)
Inclusive Action for the City (co-source)
Lawyers' Committee for Civil Rights of the San Francisco Bay Area (co-source)
Public Counsel (co-source)
Small Business Majority (co-source)

AAPI Equity Alliance
ACCE Action
Access Plus Capital
Accessity
Aha Projects
Alliance for A Better Community
Alliance for Community Development
Altcap California
Angie Rojas
API Small Business Collaborative
Arts for Healing and Justice Network
Asian Americans Advancing Justice Southern California
Asian Pacific Islander Small Business Collaborative
Asian Pacific Islander Small Business Program Wbc Ltsc Community Development Corp.
Asian, Inc.
Asociacion De Emprendedor@s
Ben Tzedek Legal Services
Beverly-Vermont Community Land Trust

California Black Chamber of Commerce
California Coalition for Community Investment
California Environmental Voters
California Immigrant Policy Center
California LGBT Arts Alliance
California Low-income Consumer Coalition
California Now
California State Council of Service Employees International Union
California Youth Empowerment Service
Calnonprofits
Cambodia Town INC.
CAMEO
CDC Small Business Finance
Cdtech
Center for Nonprofit Management
Charles & Company
Child Care Law Center
Child Development Corps
Chinatown Community Development Center
City Heights CDC
City of Daly City
City of Los Angeles
City of San Jose
Community Development Technologies
Community Vision Capital and Consulting
Consumer Attorneys of California
Corn A'copia Productions
Corporation
Courage California
Deborah Murphy Urban Design + Planning
Developers Conference
Discovery World Early Education Center
East Bay Community Law Center
East LA Community Corporation
Eastside Leads
El Chaparrito Tacos LLC
El Corredor Restaurant
Ella Baker Center for Human Rights
Escargo.io
Estela Bravo Soperanes

Freedom Assembly, Inc.
Fresno Black Chamber
Fresno Pacific University Center for Community Transformation
Friends of The Los Angeles River
Go Local Sonoma County
Goddess Next Door Corporation
Greenlining Institute
Heal One World
Heart Centered Leadership Coaching & Consulting Group
Host Friendly LLC
I Did Something Good Today Foundation
Icon CDC
Immigrants Rising
Independent Hospitality Coalition
Inland Coalition for Immigrant Justice
Insight Center for Community Economic Development
Join Against Domestic Violence
Keren Subramanya
Kiwa
Kmg Family Services
Koreatown Youth and Community Center
Kras Family Child Care LLC
LA Casa De Frida Los Angeles
LA Cocina
LA Food Policy Council
LA Forward
LA Mas
LA Percussion Rentals
Learning Rights Law Center
Legal Aid Foundation of Los Angeles
Lisc Bay Area
Little Sprouts Language Immersion Preschool
Little Tokyo Community Council
Long Beach Forward
Los Angeles Neighborhood Land Trust
Mandela Partners
Manzanita Capital Collective
Mend-meet Each Need With Dignity
Mend: Meet Each Need With Dignity
Microenterprise Collaboration

Middleman Merchandise
Mission Asset Fund
Mission Economic Development Agency
Monforte Studio
Montana Preschool Santa Monica
Multicultural Business Alliance
National Association for Latino Community Asset Builders
National Capacd
Nonprofit Finance Fund
Nonprofit Finance Fund
Oakland African American Chamber of Commerce
Oakland Chamber of Commerce
Oakland Indie Alliance
Pacific Asian Consortium in Employment
Pact, an Adopt Alliance
Paloma Market
Project Equity
Public Law Center
Rediscover Center
Renaissance Entrepreneurship Center
Rise Economy
Riverside County Black Chamber of Commerce
Sacramento Hispanic Chamber of Commerce
Saje
San Francisco Filipino American Chamber of Commerce
Sara Daleiden Consulting
Score
Shakespeare Center of Los Angeles
Small Business Anti-displacement Network
South Asian Network
South Los Angeles Transit Empowerment Zone
Southeast Asian Community Alliance
Sustainable Economies Law Center
Syrenity Consulting
Thai Community Development Center
The Greenlining Institute
United Cambodian Community
United Core Alliance
United Neighbors in Defense Against Displacement
United Way of Greater Los Angeles

Uptima Entrepreneur Cooperative
Uptown Style Jamaican Food
Urtone Skin LLC
Valle Vida
Vermont-slauson Economic Development Corporation
Village Arts
Voices for Progress
Wah Gwaan Jamaican Kitchen Bar
Walker Community Ventures
Women's Economic Ventures
Working Solutions
Yi Family Child Care
Zo International

OPPOSITION: (Verified 8/30/24)

Apartment Association of Greater Los Angeles
BOMA California
Building Owners and Managers Association of California
Cal Asian Chamber of Commerce
California Asian Pacific Chamber of Commerce
California Association of Realtors
California Building Industry Association
California Business Properties Association
California Business Roundtable
California Chamber of Commerce
California Hispanic Chamber of Commerce
California Manufacturers & Technology Association
California Mba
California Mortgage Bankers Association
California Rental Housing Association
Cupertino Chamber of Commerce
Danville Area Chamber of Commerce
Greater High Desert Chamber of Commerce
Greater San Fernando Valley Chamber of Commerce
Huntington Beach Chamber of Commerce
ICSC
Institute of Real Estate Management
International Council of Shopping Centers
LA Canada Flintridge Chamber of Commerce
Laguna Niguel Chamber of Commerce

Livermore Chamber of Commerce
Livermore Valley Chamber of Commerce
Long Beach Area Chamber of Commerce
Los Angeles County Business Federation
Modesto Chamber of Commerce
NAIOP California
Newport Beach Area Chamber of Commerce
Newport Beach Chamber of Commerce
Orange County Business Council
San Deigo Regional Chamber of Commerce
Santa Clarita Valley Chamber of Commerce
Simi Valley Chamber of Commerce
Southern California Leadership Council
The Chamber Newport Beach
Tulare Chamber of Commerce
Ucan Chambers of Commerce
Valley Industry & Commerce Association
Walnut Creek Chamber of Commerce
Western Manufactured Housing Communities Association

ARGUMENTS IN SUPPORT: According to the coalition of organizations that are sponsoring this bill:

> SB 1103 will help small businesses and nonprofits remain in their communities and continue to provide culturally significant goods and services. Currently, many small businesses and nonprofits are struggling to stay afloat due to rising rents, inflation, and gentrification—SB 1103's commercial tenant protections provide much-needed support to small business owners and nonprofits, and reduce the risk of these community pillars being displaced.
>
> California, with its diverse population and varying consumer demands, is also a state with extreme income inequality. As the cost of living in California rises, many small businesses have been forced to close or have been displaced, which harms our local neighborhoods and our regional economies. Community-serving small businesses and nonprofits, pillars of our local economy, have minimal legal protections. Rent increases, unclear and unfair lease terms, as well as exorbitant added fees, make it difficult to find and stay in a commercial space. For example, a small restaurant that provides healthy food in South Los Angeles was recently informed without prior notice or back-up documentation that their common area maintenance

fees (fees charged to commercial tenants for items such as landscaping, maintenance, property management, taxes, insurance, repairs, and security) would increase from $1,000 to $1,890 per month and was issued an eviction notice for not paying those fees immediately.

Small businesses and nonprofits would benefit greatly from commercial tenant protections; landlords are currently allowed to raise rents and evict small businesses without statutory restriction. As corporate landlords buy up more commercial properties in low-income neighborhoods, long-term community-serving small businesses and nonprofits are seeing huge rent increases and displacement. Statewide and local commercial eviction moratoriums and federal grants offered during the height of the pandemic provided much needed support to small businesses and nonprofits. Now that the moratoriums and grants have expired, small businesses and small community-serving nonprofits are vulnerable as they continue to recover from the effects of the pandemic.

SB 1103 will provide important and ground-breaking protections to small businesses and nonprofits in three ways:

1) Language justice and lease transparency, by requiring translation of commercial lease agreements when negotiated in non-English languages;
2) Fee transparency and equity, by capping security deposits at one month's rent as well as creating standards and transparency with respect to common area maintenance fees; and

Enhanced notice protections, by increasing statutory notice periods for rent increases and termination of tenancies.

ARGUMENTS IN OPPOSITION: According to the California Business Properties Association and a coalition of business interests opposed to this bill:

Despite the amendments, we remain deeply concerned that SB 1103 continues to impose burdensome and ill-conceived mandates on commercial leases. It is critical to note that the commercial real estate industry has not been included in meaningful policy discussions regarding this bill. In fact, despite submitting several pages of proposed amendments to address our concerns, these suggestions were wholly rejected. This decision indicates that input from the commercial real estate sector is not being considered, which is alarming given the significant impact this legislation will have on our industry.

The translation requirements, cost recovery limits, timing constraints, and the failure to distinguish between commercial and residential real estate dynamics impose substantial financial and administrative hardships. Additionally, the provision allowing tenants to rescind leases at any time for non-compliance with translation requirements introduces severe legal uncertainties and risks that disproportionately impact small landlords, threatening the stability of the rental market. The ripple effects of SB 1103 will lead to increased costs for tenants, reduced commercial space availability, and ultimately harm the very businesses and nonprofits it purports to support.

Prepared by: Ian Dougherty / JUD. / (916) 651-4113
8/30/24 17:27:07

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

Office of Senate Floor Analyses
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UNFINISHED BUSINESS

Bill No: SB 1108
Author: Ochoa Bogh (R)
Amended: 8/26/24
Vote: 21

SENATE HOUSING COMMITTEE: 10-0, 3/19/24
AYES: Skinner, Ochoa Bogh, Blakespear, Caballero, Cortese, Menjivar, Padilla, Seyarto, Umberg, Wahab

SENATE JUDICIARY COMMITTEE: 11-0, 4/9/24
AYES: Umberg, Wilk, Allen, Ashby, Caballero, Durazo, Laird, Min, Niello, Stern, Wahab

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/16/24
AYES: Caballero, Jones, Ashby, Becker, Bradford, Seyarto, Wahab

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

ASSEMBLY FLOOR: 55-0, 8/30/24 – Roll call not available

SUBJECT: Mobilehome parks: notice of violations

SOURCE: Western Manufactured Housing Communities Association

DIGEST: This bill: (a) increases from 60 to 90 days the allotted time for a mobilehome owner to cure a non-imminent health and safety violation; (b) requires the enforcement agency to exhaust all administrative and legal recourse against a

mobilehome owner who fails to correct violations before looking to the park owner or operator for corrective action; and (c) indefinitely extends specified enforcement responsibilities over mobilehome parks.

Assembly Amendments changed the start and end date of the bill's period of effect to Janurary 1, 2027 to January 1, 2030 rather than the previous indefinite extension, and solved chaptering conflicts with AB 2247 (Wallis).

ANALYSIS:

Existing law:

1) Establishes the Mobilehome Residency Law (MRL), which regulates the rights, responsibilities, obligations, and relationships between mobilehome park management and park residents.

2) Establishes the Mobilehome Parks Act (Act), governing mobilehome parks, and the Special Occupancy Parks Act, governing Special Occupancy Parks (such as RV parks), which establish requirements for the permits, fees, and responsibilities of park operators and enforcement agencies, including the Department of Housing and Community Development (HCD).

3) Gives HCD authority over mobilehome, special occupancy, and RV parks established by the aforementioned acts and laws. HCD's main enforcement is over the Act and not the MRL.

4) Requires, until January 1, 2025, an enforcement agency, within 10 days after conducting an inspection and determining that a non-imminent violation exists, to issue a notice (*i.e.,* a Notice of Violation) to correct the violation to the registered owner of the manufactured home or mobilehome and provide a copy to the occupant thereof, if different from the registered owner.

5) Specifies, until January 1, 2025, that mobilehome owners are provided 60 days to correct the violation. For serious violations that present an imminent hazard, resident violation notices are sent to both the homeowner and the park operator and immediate correction is required.

6) Requires HCD, until January 1, 2025, to issue and serve upon a mobilehome park owner or operator a notice setting forth what provisions of the permit or statute have been violated, and notify the permittee (*i.e.,* the mobilehome park owner or operator) that unless these provisions have been complied with within

30 days after the date of notice (*i.e.*, after HCD's 3rd reinspection, the permittee receives a Notice of Intent to Suspend the Permit to Operate), the permit will be subject to suspension.

This bill:

1) Extends specific mobilehome park enforcement responsibilities indefinitely (currently scheduled to sunset on January 1, 2025).

2) Requires the enforcement agency to be responsible for exhausting all administrative and legal recourse against a resident who fails to correct violations before looking to the mobilehome park owner or operator for corrective action.

3) Requires an enforcement agency to provide 90 days (rather than 60 days) from the date of service of the notice of violation upon the tenant and park operator for the purpose of voluntary remediation, except as provided.

Background

Background on Mobilehomes. According to HCD, California has 4,656 mobilehome parks which contain 363,415 spaces for mobilehomes or manufactured homes. Mobilehomes make up nearly 4% of all housing in the state.

Mobilehome owners do not own the land the unit sits on and instead pay rent and fees to mobilehome park management, who see the property as an investment. These can be small, local enterprises or larger corporations that own multiple communities.

Unlike traditional single-family homes, mobilehomes are considered chattel (personal) property and not real property. As such, purchasing a mobilehome is often much less expensive than traditional site-built housing and mobilehomes represent an important source of affordable housing in the state, especially for seniors and low-income households who are increasingly priced out of traditional rental housing. However, the underlying reality of mobilehome ownership reveals a potential vulnerability. Much like conventional lease agreements, the costs associated with occupying a space in a mobilehome park are subject to increases over time, posing financial challenges for residents.

When land values increase or when infrastructure maintenance becomes too costly, investors may choose to close the community and sell the property for another use. Despites their name, mobilehomes are not truly mobile and it is often cost prohibitive (up to $20,000) to relocate them. Additionally, some older homes may not be able to be moved at all due to structural concerns and often parks will not accept older mobilehomes. Homeowners in this predicament are sometimes forced to abandon their homes when a community closes. The loss of scarce locations for manufactured and mobilehomes depletes this important housing resource.

Recognizing this, the state has passed several laws governing the relationship between mobilehome owners and park management. For example, under California's MRL, mobilehome owners have protections against "no cause" evictions and can only be evicted from a park for a limited set of reasons including non-payment of rent, violation of park rules, or specified criminal activities.

Comments

1) *Author's statement.* According to the author, "A 2023 study by Harvard University's Joint Center for Housing Studies found that mobilehomes present an opportunity for homeownership for low-income households due to their "greater efficiencies in purchasing, production, and installation" in comparison to traditionally-built housing. These units are often the most affordable alternative – and last resort – for many facing homelessness. In the event a resident fails to correct a cited violation issued by the Department of Housing and Community Development (HCD), a mobilehome parkowner has almost no other option than serving an eviction notice since the park operator is only notified of the failure to correct after 60 days and then has only 30 days to ensure the violation is corrected. A park owner's Permit to Operate – and their ability to collect rent – can be revoked for uncured violations, which jeopardizes the housing of every resident. SB 1108 will reduce the number of mobilehome evictions by extending the allotted time for a mobilehome owner to cure a violation from 30 days to 90 days and providing a copy of any violation notice to the park owner so they can better assist residents in curing violations."

2) *Inspections of mobilehome parks.* Every year HCD is required to inspect at least 5% of the mobilehome parks it oversees. These inspections are intended to ensure that the park and homeowners are in compliance with the state's health and safety laws. In some parts of the state a local government handles mobilehome park inspections instead of HCD.

If an issue is found during a park inspection, or if HCD receives a health and safety complaint, a notice of violation is sent either to the mobilehome owner, the park's management, or both. In cases where correcting the violation is the responsibility of the park, mobilehome park management is sent a notice detailing the violation. Such violations would include common area issues that are not on a lot with a mobilehome on it. When a resident violation is cited (*e.g.,* loose handrail, a shed located too close to a lot line, etc.) HCD then sends a notice to the homeowner and provides 60 days to correct the issue. For serious violations that present an imminent hazard, resident violation notices are sent to both the homeowner and the park operator, and immediate correction is required.

In a 2020 audit of mobilehome park inspections, the State Auditor concluded that HCD had "not adequately communicated with residents during park inspections…HCD did not consistently notify residents of violations within required time frames, nor did it share all required information about the rights, responsibilities, and resources available to park residents. As a result, some residents may have missed opportunities to obtain help in correcting violations before parks initiated steps to evict them."

When park operators or residents have not corrected violations after HCD conducts the reinspections, HCD may generally pursue enforcement by suspending the park's permit to operate. Because mobilehome park operators are legally prohibited from charging residents rent when park permits are suspended, park operators have a financial incentive to address any outstanding violations. If HCD suspends a park's permit to operate because of outstanding resident violations, the park operator can take legal action, such as eviction, against the noncompliant resident. When the park demonstrates that it has remedied all outstanding violations, HCD either reinstates the permit to operate or issues a new one. However, if the park fails to address outstanding health and safety violations, HCD may move to revoke the park's permit to operate. HCD has an incentive to maintain a park's permit to operate otherwise they lose their enforcement responsibility over non-permitted parks—HCD currently maintains enforcement responsibility for 82% of mobilehome parks and 76% of mobilehome park lots across the state.

As of December 31, 2023, there were 36 mobilehome parks with a suspended permit to operate, compared to 37 parks in 2022.

3) *Proposed changes to enforcement.* In addition to indefinitely extending specific mobilehome park enforcement responsibilities that are currently scheduled to sunset on January 1, 2025, this bill requires the enforcement agency to exhaust all administrative and legal recourse against a resident before looking to the park owner or operator for corrective action. This language codifies provisions from an HCD Information bulletin (*i.e.,* IB MP 1991-03) relating to the duties of enforcement agencies.

Related\Prior Legislation

AB 2002 (Villapudua, 2022) would have required HCD to establish a new program, upon appropriation, to provide grants or other funding to homeowners or occupants of mobilehomes or manufactured homes for making required repairs as identified by an enforcement agency. This bill was held in the Senate Appropriations Committee.

SB 915 (Leyva, 2020) would have prohibited mobilehome parks from evicting residents who notify park management of COVID-19 impacts to their ability to pay rent and requires parks to provide those residents with extra time to repay outstanding rent, utilities or other charges, or cure violations of park rules. This bill died in the Senate.

SB 1176 (Dunn, Chapter 622, Statutes of 2004) reduced the time allowed to correct specific health and safety code violations of the Mobilehome Park Maintenance Program, and makes changes in the notice provisions for mobilehome park rule changes.

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

According to the Assembly Appropriations Committee:

- HCD estimates ongoing costs of approximately $840,000 annually (Mobilehome Park Revolving Fund or General Fund) for five staff positions to accommodate increased workload related to the extension of abatement period from 60 to 90 days and the requirement to exhaust all administrative and legal remedies before requesting that park owners correct a violation. Other duties would include developing and adopting updated program regulations and maintaining an ongoing list of local agencies with home rehabilitation and repair programs.
- HCD estimates one-time costs of approximately $310,000 (Mobilehome Park Revolving Fund or General Fund) for initial IT systems enhancements, and to

update Mobilehome Park Maintenance (MPM) inspection program literature, notice of violation letters, and training manuals.

SUPPORT: (Verified 8/12/24)

Western Manufactured Housing Communities Association (source)

OPPOSITION: (Verified 8/12/2024)

None received

Prepared by: Max Ladow / HOUSING / (916) 651-4124
8/30/24 17:27:08

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

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UNFINISHED BUSINESS

Bill No: SB 1120
Author: Becker (D), et al.
Amended: 8/23/24
Vote: 21

SENATE HEALTH COMMITTEE: 11-0, 4/10/24
AYES: Roth, Nguyen, Glazer, Gonzalez, Grove, Hurtado, Limón, Menjivar, Rubio, Smallwood-Cuevas, Wiener

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/16/24
AYES: Caballero, Jones, Ashby, Becker, Bradford, Seyarto, Wahab

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

ASSEMBLY FLOOR: 60-0, 8/30/24
(ROLL CALL NOT AVAILABLE)

SUBJECT: Health care coverage: utilization review

SOURCE: California Medical Association

DIGEST: This bill establishes requirements on health plans and insurers applicable to their use of Artificial Intelligence (AI) for utilization review (UR) and utilization management (UM) decisions, including, that the use of AI, algorithm, or other software must be based upon a patient's medical or other clinical history and individual clinical circumstances as presented by the requesting provider and not supplant health care provider decision making.

Assembly Amendments add "other clinical history" and "other clinical records" to the information for which AI, algorithm, or other software tools can base UR/UM functions related to medical necessity determinations. Prohibit a decision from being based solely on a group dataset. Require the criteria and guidelines to comply with applicable state and federal law. Provide less specificity with regard to the antidiscrimination provision. Define AI. Clarify that this bill applies to UR/UM that prospectively, retrospectively, or concurrently review requests for covered health care services. Require disclosure of the use and oversight of AI, algorithm or other software tools in policies and procedures. Allow the Department of Managed Health Care (DMHC), California Department of Insurance (CDI) and the Department of Health Care Services (DHCS) to issue guidance, not subject to the Administrative Procedures Act, within one year of the adoption of federal rules or guidance by the federal Department of Health and Human Services (DHHS) regarding the use of AI, algorithm, or other software tools. Allow DMHC, CDI and DHCS to enter into exclusive or nonexclusive, bid or no bid, contracts exempt from the Department of General Services review. Apply this bill to Medi-Cal managed care plans to the extent allowed with federal financial participation. Delete a requirement that a decision to deny, delay, or modify health care services be made by a provider with the same or similar specialty as the requesting provider.

ANALYSIS:

Existing law:

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

2) Establishes requirements on health plans and insurers relating to UR/UM functions that prospectively, retrospectively, or concurrently reviews and approves, modifies, delays, or denies, based in whole or in part on medical necessity, requests by providers for the provision of health care services to enrollees. These requirements also apply when a plan or insurer delegates these functions to medical groups or independent practice associations or to other contracting providers. [HSC §1367.01 and INS §10123.135]

3) Prohibits any individual, other than a licensed physician or a licensed health care professional who is competent to evaluate the specific clinical issues involved in the health care services requested by a provider, from denying or

modifying requests for authorization of health care services for an enrollee or insured for reasons of medical necessity. [HSC §1367.01 and INS §10123.135]

This bill:

1) Requires a health plan or disability insurer, including a specialized plans that uses AI, algorithm, or other software tools for UR/UM for medical necessity, or that contracts with or otherwise works through an entity that provides this service, to comply with UR/UM law and ensure the following:

   a) Requires the AI, algorithm, or other software tool to base its determination on the following, as applicable:

      i) Medical or other clinical history;
      ii) Individual clinical circumstances as presented by the requesting provider; and,
      iii) Other relevant clinical information contained in the medical or other clinical record;

   b) Prohibits the AI, algorithm, or other software tool from basing its determination solely on a group dataset;

   c) Prohibits the AI, algorithm, or other software tool from supplanting health care provider decision making;

   d) Prohibits the use of the AI, algorithm, or other software tool from discriminating, directly or indirectly, against patients in violation of state or federal law;

   e) Requires the AI, algorithm, or other software tool to be fairly and equitably applied, including in accordance with any applicable regulations and guidance issued by the federal DHHS;

   f) Requires the AI, algorithm, or other software tool to be open to inspection for audit or compliance reviews and pursuant to applicable state and federal law;

g) Requires disclosures pertaining to the use and oversight of the AI, algorithm, or other software tool to be contained in written policies and procedures, as required in existing law;

h) Requires the AI, algorithm, or other software tool's performance, use, and outcomes to be periodically reviewed and revised to maximize accuracy and reliability;

i) Prohibits patient data from being used beyond its intended and stated purpose, consistent with the Confidentiality of Medical Information Act and the federal Health Insurance Portability and Accountability Act of 1996, as applicable; and,

j) Prohibits the AI, algorithm, or other software tool from directly or indirectly causing harm to the patient.

2) Prohibits the AI, algorithm, or other software tool from denying, delaying, or modifying health care services based in whole or in part on medical necessity.

3) Requires a medical necessity determination to be made only by a licensed physician or other licensed health care professional competent to evaluate the specific clinical issues involved in the health care services requested by the provider, as provided in existing law, by reviewing and considering the requesting provider's recommendation and based on the patient's medical history or other clinical history, as applicable, and individual clinical circumstances.

4) Defines AI as an engineered or machine-based system that varies in its level of autonomy and that can, for explicit or implicit objectives, infer from the input it receives how to generate outputs that can influence physical or virtual environments.

Comments

According to the author, recent reports of automated decision tools inaccurately denying provider requests to deliver care is worrisome. While AI has the potential to improve healthcare delivery, it must be supervised by trained medical professionals who understand the complexities of each patient's situation. Wrongful denial of insurance claims based on AI algorithms can lead to serious health consequences, and even death. This bill strikes a common sense balance that

puts safeguards in place for automated decision tools without discouraging companies from using this new technology.

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

According to the Assembly Appropriations Committee, the DMHC estimates the total cost of this bill to the Managed Care Fund, as follows:

1) $18,000 in fiscal year (FY) 2024-25; $2.44 million in FY 2025-26; $2.46 million in FY 2026-27; $2.51 million in FY 2027-28; and, $3.51 million in FY 2028-29 in FY 2029-30 and annually thereafter. DMHC's Office of Legal Services anticipates short-term workload to draft legal memorandum and promulgate regulations to clarify the requirements; the Office of Plan Monitoring (OPM) will need to revise survey methodology, develop tools to assess health plan compliance, and review health plan filings of UM and other health plan documents; the Office of Enforcement anticipates an additional twenty referrals annually from the OPM beginning in FY 2026-27 and will need consultation funding for expert witness consultants, court reporting services and trial-related costs; and the Office of Technology and Innovation anticipates licensing costs. DMHC states that generally, a $1 million dollar increase to the Managed Care Fund could result in a 2-cent increase per enrollee on assessments to full-service health plans and a 1-cent increase per enrollee to specialized health plans. To the extent this bill and others result in an additional assessment on health plans, consumers could face higher premiums.

2) CDI estimates workload costs of $840 in FY 2024-25 and $13,000 in FY 2025-26 (Insurance Fund).

SUPPORT: (Verified 8/28/24)

California Medical Association (source)
Autism Business Association
Breathe California
California Academy of Family Physicians
California Chapter of American College of Cardiology
California Dental Association
California Hospital Association
California Life Sciences
California Orthopedic Association
California Podiatric Medical Association
California Rheumatology Alliance

California State Council of Service Employees International Union
Consumer Attorneys of California
CPCA Advocacy
Oakland Privacy
Physician Association of California
Providence
Providence Medical Group and Clinical Network
Psychiatric Physicians Alliance of California
San Francisco Marin Medical Society
Spondylitis Association of America

OPPOSITION: (Verified 8/28/24)

None received

ARGUMENTS IN SUPPORT: The California Medical Association, sponsor of this bill, writes while AI tools can improve access to care and assist providers, they have also faced criticism for inaccuracies and biases. This bill addresses those issues by guaranteeing that a provider has final approval of utilization review decisions when AI is being used. Additionally, this bill includes safeguards to ensure AI, or algorithms used in utilization review do not discriminate against individuals based on their identity. As powerful as many AI tools are, they can be compromised when they rely on faulty, outdated, or biased data sources, leading to improper treatment recommendations. This bill adopts federal guidance requiring health plans to make certain that their AI technology is free from such problems. Without this bill, patients could have essential medical services denied by AI when being used for utilization review by health insurers. AI has been and will continue to be an essential tool in improving health care access and affordability for patients, but physicians must have oversight of critical utilization review decisions to allow for the best health outcomes for our communities. This bill provides essential guardrails to allow us to continue successfully integrating AI into our health care system.

Prepared by: Teri Boughton / HEALTH / (916) 651-4111
8/30/24 17:27:08

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

Office of Senate Floor Analyses
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UNFINISHED BUSINESS

Bill No: SB 1155
Author: Hurtado (D)
Amended: 8/22/24
Vote: 27

SENATE ELECTIONS & C.A. COMMITTEE: 6-0, 4/16/24
AYES: Blakespear, Nguyen, Allen, Newman, Portantino, Umberg
NO VOTE RECORDED: Menjivar

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 39-0, 5/20/24
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, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk
NO VOTE RECORDED: Min

ASSEMBLY FLOOR: 55-0, 8/30/24 – Roll call not available

SUBJECT: Political Reform Act of 1974: postgovernment employment restrictions

SOURCE: Author

DIGEST: This bill prohibits the head of a state administrative agency from engaging in any activity to influence legislative or administrative action by the Legislature or any state administrative agency for one year after leaving office.

Assembly Amendments aligned the proposed prohibition for the heads of state administrative agencies to existing law.

ANALYSIS:

Existing law:

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

2) Prohibits a designated employee of a state administrative agency, any officer, employee, or consultant of a state administrative agency who holds a position that entails the making, or participation in the making, of decisions that may foreseeably have a material effect on any financial interest, and a member of a state administrative agency, for a period of one year after leaving office or employment for compensation, act as agent or attorney for, or otherwise represent, any other person, by making any formal or informal appearance, or by making any oral or written communication, before any state administrative agency, or officer or employee thereof, for which the individual worked or represented during the 12 months before leaving office or employment, if the appearance or communication is made for the purpose of influencing administrative or legislative action, or influencing any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property. Provides, for this provision, an appearance before a state administrative agency does not include an appearance in a court of law, before an administrative law judge, or before the Workers' Compensation Appeals Board. Provides that the prohibition only apply to designated employees employed by a state administrative agency on or after January 7, 1991.

   a) Defines "state administrative agency" to mean every state office, department, division, bureau, board, and commission, but does not include the Legislature, the courts, or any agency in the judicial branch of government.

3) Prohibits a Member of the Legislature, for a period of one year after leaving office, from acting as a compensated agent or attorney for, or otherwise representing, any other person by making formal or informal appearances before or communications with the Legislature, any committee or subcommittee, any present Member of the Legislature, or any officer or employee thereof, if the appearance or communication is made for the purpose of influencing legislative action.

4) Prohibits a Member of the Legislature who resigns from office, for a period commencing with the effective date of the resignation and concluding one year

after the adjournment sine die of the session in which the resignation occurred, from acting as a compensated agent or attorney for, or otherwise representing, any other person by making formal or informal appearances before or communications with the Legislature, any committee or subcommittee, any present Member of the Legislature, or any officer or employee thereof, if the appearance or communication is made for the purpose of influencing legislative action.

5) Defines "legislative action," for the purpose of the restrictions on post-legislative employment activities by former members of the Legislature, to mean the drafting, introduction, consideration, modification, enactment, or defeat of any bill, resolution, amendment, report, nomination, or other matter by the Legislature or by either house or any committee, subcommittee, joint or select committee thereof, or by a member or employee of the Legislature acting in the member's official capacity. Provides that "legislative action" also include the action of the Governor in approving or vetoing any bill.

6) Prohibits an elected state officer, other than a member of the Legislature, for a period of one year after leaving office, from acting as a compensated agent or attorney for, or otherwise representing any other person by making appearances before, or communications with, any state administrative agency, as specified, if the appearance or communication is for the purpose of influencing specified administrative actions.

7) Provides that the above prohibitions do not apply to any individual who is or becomes any of the following:

   a) An officer or employee of another state agency, board, or commission if the appearance or communication is for the purpose of influencing legislative or administrative action on behalf of the state agency, board, or commission; or,

   b) An official holding an elective office of a local government agency if the appearance or communication is for the purpose of influencing legislative or administrative action on behalf of the local government agency.

8) Prohibits a state or local public official from making, participating in making, or using their official position to influence any governmental decision directly relating to any person or other entity with whom the official is negotiating, or has any arrangement concerning, prospective employment.

9) Defines "lobbyist," unless certain conditions are met and as specified, to mean either of the following:
   a) Any individual who receives $2,000 or more in economic consideration in a calendar month, other than reimbursement for reasonable travel expenses, or whose principal duties as an employee are, to communicate directly or through that individual's agents with any elective state official, agency official, or legislative official for the purpose of influencing legislative or administrative action.

   b) An individual directly or indirectly hired, engaged, or retained by, or serving for the benefit of or on behalf of, an external manager or an investment fund managed by an external manager, and who acts or has acted for compensation as a finder, solicitor, marketer, consultant, broker, or other intermediary in connection with the offer or sale to a state public retirement system in California or an investment vehicle, as specified in the PRA. This is referred to as a placement agent.

10) Defines "elective state office" as any person who holds an elective state office or has been elected to a state office but has not yet taken office. Provides that a person who is appointed to fill a vacant elective state office is an elected state officer.

This bill:

1) Prohibits the head of a state administrative agency, for a period of one year after leaving office, from acting as an agent or attorney for any other person by making an appearance before, or making an oral or written communication to, a state administrative agency or the Legislature if the appearance or communication is made for compensation and for the purpose of influencing legislative or administrative action.

2) Specifies that the "head of a state administrative agency" includes elected state officers and appointed officials who receive a salary based on their appointment.

Background

Postgovernment Employment - One Year Ban. The one-year ban prohibits certain officials, for one year after leaving state service, from representing any other person by appearing before or communicating with, for compensation, their former

agency in an attempt to influence agency decisions that involve the making of general rules (such as regulations or legislation), or to influence certain proceedings involving a permit, license, contract, or transaction involving the sale or purchase of property or goods.

Additionally, a one-year ban applies to a Member of the Legislature who resigns from office, beginning with the date of resignation and ending one year after the end of the session in which the resignation occurred.

The following persons are subject to the one-year ban:

1) Members of the Legislature and other elected state officials.
2) Members of state boards and commission with decision-making authority.
3) Any individual who holds a position designated in Government Code Section 87200 appointed or employed by a state agency.
4) Any individual who manages public investments appointed or employed by a state agency.
5) Any state official designated in their agency's conflict-of-interest code.
6) Any state official that should be designated in their agency's conflict-of-interest code. State agency employees, officers, and consultants should be designated in their respective agency's conflict-of-interest code if they make or participate in making governmental decisions.

It should be noted that non-elected employees and consultants of the Legislature, the courts, and any agency in the judicial branch are not subject to the one-year ban unless they held other positions or offices subject to the ban.

Permanent Ban. Existing law also contains a permanent ban for specific former state officials. The permanent ban on "switching sides" prohibits former state officials from working on proceedings that they participated in while working for the state. The ban prohibits appearances and communications to represent any other person as well as aiding, advising, counseling, consulting or assisting in representing any other person, for compensation before any state administrative agency in a proceeding involving specific parties (such as a lawsuit, a hearing before an administrative law judge, or a state contract) if the official previously participated in the proceeding.

The permanent ban applies to every "state administrative official," which is defined as "every member, officer, employee or consultant of a state administrative agency who as part of his or her official responsibilities engages in any judicial, quasi-judicial or other proceeding in other than a purely clerical, secretarial or

ministerial capacity." However, the permanent ban does not apply to Members, officers, employees, or consultants of the Legislature, the courts, or any agency in the judicial branch of government, unless they held other positions or offices subject to the ban.

Comments

1) *According to the author:* Building trust in our democracy requires decisive action to address the concerning phenomenon of the revolving door between state agencies and lobbying firms. SB 1155 stands as a beacon of hope, proposing a one-year cooling-off period for executive members of state agencies before they can engage in lobbying activities.

   This legislation recognizes the urgency of the situation and seeks to create a longer buffer period to mitigate conflicts of interest, promote transparency, and ultimately restore trust in the integrity of our state agencies and the policymaking process. By imposing a more substantial barrier between public service and private advocacy, SB 1155 aims to safeguard against the undue influence of special interests and ensure that decisions are made with the public's best interests at heart.

   In taking this bold step, we reaffirm our commitment to accountable governance and uphold the principles upon which our democracy thrives. By enacting measures such as SB 1155, we send a clear message that the integrity of our democratic institutions is non-negotiable and that the public's trust must be safeguarded above all else. It is through actions like these that we can build a government that is truly of the people, by the people, and for the people.

2) *Need for the bill.* According to the author, in recent years, concerns have escalated regarding the revolving door phenomenon observed between state agencies and lobbying firms. This phenomenon entails a seamless transition for state agency executives into highly lucrative lobbying roles, wherein there is a significant potential for leveraging insider knowledge for personal gain. Such a practice has become a focal point for ethical scrutiny and has detrimentally impacted public trust in the integrity of state agencies.

   Traditionally, state regulations have attempted to address this issue by imposing short cooling-off periods, ostensibly aimed at allowing officials to take up lobbying positions shortly after departing from government roles. However, this regulatory approach has inadvertently created a loophole, enabling former executives to swiftly advocate for interests that may directly conflict with the broader public good. Consequently, this loophole has

contributed to the erosion of confidence in government decision-making processes, further exacerbating concerns surrounding the impartiality and transparency of governance mechanisms.

Related/Prior Legislation

SB 573 (Wahab, 2023) would have prohibited an employee designated in the Conflict of Interest Code for the Senate or the Assembly, for a period of two years after leaving office and for compensation from engaging in lobbying activities, unless certain conditions were met.

AB 1620 (Dababneh, Chapter 800, Statutes of 2017) provided that if a Member of the Legislature resigns from office, the "revolving door" prohibition will commence with the effective date of the resignation and continue until one year after adjournment sine die of the legislative session during which he or she resigned.

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

According to the Assembly Appropriations Committee:

Minor and absorbable costs to the Fair Political Practices Commission to update educational materials and regulations.

SUPPORT: (Verified 8/26/24)

None received

OPPOSITION: (Verified 8/26/24)

None received

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

SENATE RULES COMMITTEE SB 1170
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UNFINISHED BUSINESS

Bill No: SB 1170
Author: Menjivar (D), et al.
Amended: 8/22/24
Vote: 27

SENATE ELECTIONS & C.A. COMMITTEE: 6-0, 4/30/24
AYES: Blakespear, Allen, Menjivar, Newman, Portantino, Umberg
NO VOTE RECORDED: Nguyen

SENATE FLOOR: 31-8, 5/21/24
AYES: 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
NO VOTE RECORDED: Allen

ASSEMBLY FLOOR: 54-8, 8/30/24 – Roll call vote not available

SUBJECT: Political Reform Act of 1974: campaign funds

SOURCE: California Women's List

DIGEST: This bill permits campaigns funds to be used for reasonable and necessary mental health care expenses to address mental health issues that arise during a campaign or have been adversely impacted by campaign activities, as specified.

Assembly Amendments provided additional specificity and conditions for when campaign funds can be used for mental health care expenses, added coauthors, address chaptering issues with AB 2803 (Valencia, 2024), and made technical changes.

ANALYSIS:

Existing law:

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

2) Requires an expenditure of campaign funds to be related to a political, legislative or governmental purpose, as specified.

3) Prohibits campaign funds, among other prohibitions, from being used to pay health-related expenses for a candidate, elected officer, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee, or members of their households. Provides that "health-related expenses" includes, but is not limited to, examinations by physicians, dentists, psychiatrists, psychologists, or counselors and expenses for medications, treatments, medical equipment, hospitalization, health club dues, and special dietary foods. Provides that campaign funds may be used to pay employer costs of health care benefits of a bona fide employee or independent contractor of the committee.

4) Provides that the PRA may be amended to further its purposes by statute if the measure is passed in each house by a two-thirds vote and signed by the Governor, as specified. Provides that the PRA may be amended or repealed when approved by voters.

This bill:

1) Permits campaign funds to be used to pay a candidate for reasonable and necessary mental health care expenses to address mental health issues that have arisen during the campaign or have been adversely impacted by campaign activities if both of the following conditions are satisfied:

    a) The candidate does not have health insurance or their health insurance does not cover the full cost of these mental health care expenses. Permits campaign funds to be used to pay for the portion not covered by health insurance; and

b) The candidate has experienced harassment, prejudice, or a threat or other criminal act, which resulted in the need for mental health care services.

2) Permits campaign funds to be used for 1) starting 12 months before the date of the election and up to the date that the Secretary of State or local elections official certifies the election results or, for a candidate who is elected to office, up to the date that the candidate is sworn into office.

3) Requires a candidate who uses campaign funds for mental health care expenses to report this use on a campaign statement filed. Provides a candidate is not required to provide further detail on the campaign statement as to the underlying campaign-related circumstances or events that gave rise to the need for mental health care services. Provides that it is not necessary for the candidate to report the underlying campaign-related circumstances or events to a law enforcement agency or for the circumstances or events to have given rise to civil or criminal proceedings to use campaign funds for mental health care expenses.

4) Makes technical and corresponding changes.

5) Addresses chaptering issues between this bill and AB 2803 (Valencia, 2024).

Background

Use of Campaign Funds. The PRA strictly regulates the use of campaign funds by candidates, elected officials, and others who control the expenditure of those funds. Existing law generally requires expenditures of campaign funds to be either reasonably related to a political, legislative, or governmental purpose. Any expenditure of campaign funds that confers a substantial personal benefit on anyone with authority to approve the expenditure of campaign funds needs to be directly related to a political, legislative, or governmental purpose of the committee. A substantial personal benefit means an expenditure of campaign funds which results in a direct personal benefit with a value of more than $200.

Recent Research. In August of 2023, California Women's List analyzed the mental health impacts of hostility directed at candidates pursuing federal, state, or local offices in California. The study received 103 responses from people of various gender identities who ran for elected office in California between 2016 and 2022. According to the study, approximately 80 percent of all respondents reported experiencing new mental health or wellness-related symptoms that stemmed from

hostility experienced during their campaigns. The report noted that the most commonly experienced problems were sleep disturbance and fatigue, excessive anxiety and worry, and diminished ability to think or concentrate. To address these issues, the study recommended the Legislature amend the PRA to allow candidates to use campaign funds for mental health services.

Comments

1) *According to the author:* "Harassment and threats are pervasive on the campaign trail, with those who are underrepresented in government disproportionately reporting severe hostility, stalking, and even physical violence. The mental health toll that harassment and stalking take can be detrimental to a candidate's campaign, especially for women, women of color, and LGBTQ+ folks. We cannot stop harassment from occurring, but by allowing campaign funds to be used for mental health care costs, we can support candidates' sense of well-being as we strive to increase the diversity of voices in government. Research has found that around 80% of respondents reported experiencing new or worsened mental health or well-being symptoms that they believed were caused, in whole or in part, by hostility experienced on the campaign trail. Such symptoms include increased anxiety, sleep disturbance, panic attacks, and dissociative reactions. SB 1170 will address this by allowing candidates running for political office to use campaign funds for campaign-related mental health care services."

2) *Furthering the Purposes of the PRA.* Existing law prohibits the use of campaign funds for health-related expenses. The PRA specifies that "health-related expenses" includes, but is not limited to, examinations by physicians, dentists, psychiatrists, psychologists, or counselors and expenses for medications, treatments, medical equipment, hospitalization, health club dues, and special dietary foods. This bill seeks to allow campaign funds to be used for mental health care expenses. Amendments to the PRA through legislation is only permissible if it furthers the purposes of the PRA.

Related/Prior Legislation

AB 220 (Bonta, Chapter 384, Statutes of 2019) permitted candidates to use campaign funds for childcare expenses incurred while the candidate is engaging in campaign activities.

SB 1431 (Roberti, Chapter 1452, Statutes of 1989), among other provisions relating to the use of campaign funds, prohibited the use of campaign funds for health-related expenses of a candidate, elected official, or their immediate family.

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

According to the Assembly Appropriations Committee:

Annual costs of approximately $150,000 to the FPPC for an additional enforcement position (General Fund (GF)). FPPC notes the increased complexity of investigating a complaint that involves reimbursed funds, as such workload requires obtaining access to personal financial records in addition to the campaign's financial records. According to the Legislative Analyst's Office, the GF faces a structural deficit in the tens of billions of dollars over the next several fiscal years.

SUPPORT: (Verified 8/26/24)

California Women's List (source)
Mayor Farrah N. Khan, City of Irvine
Brennan Center for Justice at NYU Law
California Democratic Party
CFT – A Union of Educators and Classified Professionals, AFT, AFL - CIO
Close the Gap California
County of Los Angeles Board of Supervisors
Democratic Women's Club of San Diego
Fund Her
Latina Democratic Club
Los Angeles County Board of Supervisors
Los Angeles County Young Democrats
National Women's Political Caucus of California
San Francisco Board of Supervisors
San Francisco Women's Political Committee
Vote Mama Foundation
1 individual

OPPOSITION: (Verified 8/26/24)

None received

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

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UNFINISHED BUSINESS

Bill No: SB 1181
Author: Glazer (D)
Amended: 8/22/24
Vote: 27

SENATE ELECTIONS & C.A. COMMITTEE: 6-0, 4/22/24
AYES: Blakespear, Nguyen, Menjivar, Newman, Portantino, Umberg
NO VOTE RECORDED: Limón

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

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

ASSEMBLY FLOOR: 55-0, 8/30/24 – Roll call vote not available

SUBJECT: Campaign contributions: agency officers

SOURCE: Author

DIGEST: This bill makes various changes to the Levine Act that restricts campaign contributions to agency officials from entities with business before the agency involving a license, permit, or other entitlement for use.

Assembly Amendments removed provisions relating to a notice on public agendas about the Levine Act and made additional changes to the Levine Act. Assembly amendments also address chaptering issues between this bill and SB 1243 (Dodd, 2024).

ANALYSIS:

Existing law:

1) Creates the Fair Political Practices Commission (FPPC) and makes it responsible for implementing the Political Reform Act of 1974 (PRA).

2) Provides a public official has a financial interest in a decision if it is reasonably foreseeable that the decision will have a material financial effect on the official, a member of their immediate family, or on any other of the following:

   a) Any business entity in which the public official has a direct or indirect investment worth $2,000 or more.

   b) Any real property in which the public official has a direct or indirect interest worth $2,000 or more.

3) Prohibits contribution of more than $250 from being given or accepted while a proceeding involving a license, permit, or other entitlement for use is pending, and for 12 months following the date a final decision is rendered.

4) Requires each officer of the agency who received a contribution of more than $250 within the preceding 12 months from a person with business before the agency to disclose that fact. Prohibits an officer of an agency who accepted such a contribution from participating in the decision affecting the person who made the contribution.

5) Permits an officer to participate in the proceeding if they return any prohibited contribution within 30 days, as specified.

6) Permits an officer to cure a violation by returning the contribution, or the portion of the contribution in excess of $250, within 14 days in cases where a contribution was accepted during the 12 months after the date a final decision is rendered in the proceeding, if certain conditions are met.

7) Requires a party to a proceeding to disclose any contribution in an amount of more than $250 made within the preceding 12 months by the party or the party's agent.

8) Prohibits a party, or agent to a party, to a proceeding from making a contribution of more than $250 to any officer of that agency during the proceeding and for 12 months following the date a final decision is rendered.

This bill:

1) Exempts the following types of proceedings from those that are covered by the Levine Act:

   a) The periodic review or renewal of development agreements unless there is a material modification or amendment proposed to the agreement.

   b) Periodic reviews or renewal of competitively bid contracts unless there are material modifications or amendments proposed to the agreement that are valued at more than 10% of the value of the contract or $50,000, whichever is less.

   c) Modification of or amendments to contracts that are otherwise exempt, other than competitively bid contracts.

2) Provides that the Levine Act's restrictions do not apply to a city attorney or county counsel who is providing legal advice to their agency, and who does not have the authority to make a final decision in the proceeding.

3) Extends the period of time during which an officer may return a contribution that would otherwise require disqualification under the Levine Act, and thus be permitted to participate in the relevant proceeding, such that the officer can return a contribution as late as 30 days from the time the officer makes any decision in the proceeding.

4) Codifies regulations adopted by the FPPC that specify when a person is and is not an "agent" for the purposes of the Levine Act.

5) Addresses chaptering issues between this bill and SB 1243 (Dodd, 2024).

Background

The Levine Act. In 1982, the Legislature passed and Governor Brown signed AB 1040 (Levine, Chapter 1049, Statutes of 1982). AB 1040, also known as the Levine Act, prohibited an elected or appointed officer, alternate, or candidate for

office who serves on a specific quasi-judicial board or commission from accepting, soliciting, or directing a contribution of $250 from any person or their agent who has an application for a license, permit, or other entitlement for use pending before the body. The prohibition also extended for three months following the date a decision is rendered on the application or until the end of the officer's term, whichever is longer. Constitutional officers and members of legislative bodies, such as city councils, county boards of supervisors, and the Legislature were excluded from these provisions unless the officer served on a specific board or commission.

SB 1439 (Glazer). In 2022, the Legislature passed and Governor Newsom signed SB 1439 (Glazer, Chapter 848, Statutes of 2022). SB 1439 modified and added to the Levine Act. First, the legislation removed an exemption for local government agencies whose members are directly elected by the voters. Second, SB 1439 extended, from three months to 12 months, the period of time following the date that an agency renders a final decision in a matter during which an officer is subject to the Levine Act. Finally, SB 1439 provided a process to cure a violation should it occur and if certain conditions are met. Officers who accept a contribution over $250 during the 12 months after the date a final decision is rendered can cure the violation by returning the contribution or the portion exceeding $250 within 14 days.

Recent Litigation. Following the enactment of SB 1439, business associations and local elected officials sued the FPPC seeking to have SB 1439 declared unconstitutional. In the end, the court ruled that SB 1439 does not violate the United States Constitution or the California Constitution and the ruling was not appealed by the plaintiffs. (*Family Business Association of California vs. Fair Political Practices Commission*; case number: 34-2023-00335169-CU-MC-GDS).

Comments

According to the author: "In 2022, the Legislature passed one of the most significant reforms in the last 50 years, the Pay to Play bill, SB 1439. This measure prohibited political contributions over $250 from parties seeking contracts with local governments to the elected local officials who make contracting decisions. While the intent of the bill was to protect the integrity of the decisions of local officers, there were unintended implementations issues that were costing the FPPC and local jurisdictions time and money to correct. SB 1181 is a clean-up bill which intends to ease implementation issues."

Related/Prior Legislation

SB 1243 (Dodd, 2024) makes various changes to the Levine Act that restricts campaign contributions to agency elected officials from entities with business before the agency involving a license, permit, or other entitlement for use, including raising the threshold for campaign contributions regulated by the Levine Act from $250 to $500.

AB 2911 (McKinnor, 2024) amends the Levine Act to raise the contribution threshold for contributions to $1,500.

SB 1439 (Glazer, Chapter 848, Statutes of 2022) applied existing campaign contribution prohibitions for state and local agencies and applied it to local elected agencies, such as city councils and boards of supervisors, and expanded the timeframe prohibiting specific contributions following an official's action from three months to 12 months, as specified.

AB 1040 (Levine, Chapter 1049, Statutes of 1982), known as the Levine Act, prohibited an elected or appointed officer, alternate, or candidate for office who serves on a specific quasi-judicial board or commission from accepting, soliciting, or directing a contribution of $250 or more from any person or their agent who has an application for a license, permit, or other entitlement for use pending before the body and for three months following the date a decision is rendered on the application or until the end of the officer's term, whichever is longer, or from any person, or their agent, who actively opposes the application.

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

According to the Assembly Appropriations Committee:

1) Minor and absorbable costs to the FPPC to revise informational materials and provide updated advice. Many of the changes made by this bill codify recently enacted FPPC regulations.

2) By requiring a local meeting agenda to include specified information, this bill may create a state-mandated local program. If the Commission on State Mandates determines the provisions of this bill create a new program or impose a higher level of service for which the state must reimburse local costs, local agencies could seek reimbursement from the state. The magnitude of costs is unknown, but likely minor and absorbable.

SUPPORT: (Verified 8/30/24)

California Clean Money Campaign
California Common Cause

OPPOSITION: (Verified 8/30/24)

None received

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SENATE RULES COMMITTEE SB 1281
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UNFINISHED BUSINESS

Bill No: SB 1281
Author: Menjivar (D), et al.
Amended: 8/22/24
Vote: 21

SENATE HUMAN SERVICES COMMITTEE: 5-0, 4/1/24
AYES: Alvarado-Gil, Ochoa Bogh, Blakespear, Menjivar, Wahab

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/16/24
AYES: Caballero, Jones, Ashby, Becker, Bradford, Seyarto, Wahab

SENATE FLOOR: 38-0, 5/24/24
AYES: Alvarado-Gil, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hurtado, Jones, Laird, Limón, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk
NO VOTE RECORDED: Allen, Archuleta

ASSEMBLY FLOOR: 44-0, 8/30/24 – Roll call vote not available

SUBJECT: Advancing Equity and Access in the Self-Determination Program Act

SOURCE: Disability Voices United
Integrated Community Collaborative

DIGEST: This bill establishes the Advancing Equity and Access in the Self-Determination Program Act, which requires the Department of Developmental Services (DDS), by January 1, 2026, to establish statewide standardized processes and procedures for the Self-Determination Program (SDP). This bill requires DDS to ensure these processes and procedures are consistently applied by each regional center and make measurable improvements towards achieving equitable enrollment by race, ethnicity, and regional center.

Assembly Amendments make implementation of certain provisions conditional on federal funding eligibility, strike proposed requirements for regional centers and a requirement fords to assess FMS providers, and incorporate changes proposed by SB 1463 (Niello) to be operative only if this bill and SB 1463 are both enacted and this bill is enacted last.

ANALYSIS:

Existing law:

1) Establishes the Lanterman Developmental Disabilities Services Act (Lanterman Act), which states that California is responsible for providing a range of services and supports sufficiently complete to meet the needs and choices of each person with developmental disabilities, regardless of age or degree of disability, and at each stage of life, and to support their integration into the mainstream life of the community. (Welfare and Institutions Code Section (WIC) 4500, et seq.)

2) Establishes a system of nonprofit Regional Centers, overseen by DDS, to provide fixed points of contract in the community for all persons with developmental disabilities and their families, to coordinate services and supports best suited to them throughout their lifetime. (WIC 4620)

3) Establishes an Individual Program Plan (IPP) as the process to ensure that services and supports are customized to meet the needs of consumers who are served by regional centers for the purpose of alleviating a developmental disability or toward the social, personal, physical, or economic habilitation or rehabilitation of an individual with a developmental disability, or toward the achievement and maintenance of independent, productive, and normal lives. (WIC 4512(b))

4) Requires decisions concerning the consumer's goals, objectives, and services and supports included in their IPP to be made by agreement between the regional center representative and the consumer or, when appropriate, the consumer's parents, legal guardian, conservator, or authorized representative, at the program plan meeting. (WIC 4646(d))

5) Requires the IPP planning processes to include:

    a) A statement of the individual's goals and objectives, a schedule of the type and nature of services to be provided and other information and considerations, as specified;

b) Review and modification, as necessary, by the regional center's planning team no less frequently than every three years; and

c) Statewide training and review of the IPP plan creation, as specified. (WIC 4646.5)

6) Establishes a statewide Self-Determination Program (SDP) available in every regional center catchment area to provide participants and their families, within an individual budget, increased flexibility and choice, and greater control over decisions, resources, and needed and desired services and supports to implement their IPP. (WIC 4685.8)

7) Defines "self-determination" to mean a voluntary delivery system consisting of a defined and comprehensive mix of services and supports, selected and directed by a participant through person-centered planning, in order to meet the objectives in their IPP. (WIC 4685.8(c)(6))

8) Defines "independent facilitator" to mean a person, selected and directed by the participant, who is not otherwise providing services to the participant pursuant to their IPP and is not employed by a person providing services to the participant. Authorizes an independent facilitator to assist the participant in making informed decisions about the individual budget and in locating, accessing, and coordinating services and supports consistent with the participant's IPP. Requires an independent facilitator to receive training in the principles of self-determination and the person-centered planning process. Specifies the cost of the independent facilitator, if any, shall be paid out of the participant's individual budget. (WIC 4685.8(c)(2))

9) Defines "individual budget" to mean the amount of regional center purchase of service funding available to the participant for the purchase of services and supports necessary to implement the IPP. Requires the individual budget to be determined using a fair, equitable, and transparent methodology. (WIC 4685.8(c)(3))

10) Defines "spending plan" to mean the plan the participant develops to use their available individual budget funds to purchase goods, services, and supports necessary to implement their IPP. Specifies the spending plan must identify the cost of each good, service, and support that will be purchased with regional center funds, and that the total amount cannot exceed the amount of the individual budget. (WIC 4685.8(c)(7))

11) Defines "financial management services" (FMS) to mean services or functions that assist the participant to manage and direct the distribution of funds contained in the individual budget and ensure that the participant has the financial resources to implement their IPP throughout the year, as specified. (WIC 4685.8(c)(1))

12) States participation in the SDP is fully voluntary. Specifies any regional center consumer who meets the all of following shall be eligible to participate in the SDP: the participant has a developmental disability and is receiving regional center services; the consumer does not live in a licensed long-term health care facility; and the participant agrees to the SDP terms and conditions. (WIC 4685.8(d))

13) Requires each regional center to implement the SDP as a term of its contract. (WIC 4685.8(r))

14) Requires each regional center to review the spending plan to verify that goods and services eligible for federal financial participation are not used to fund goods or services available through generic agencies. (WIC 4685.8(r)(6))

15) Requires a regional center to pay the full costs of the participant's FMS provider. (WIC 4685.8(u))

16) Requires DDS to provide an annual report to the Legislature, as specified. (WIC 4685.8(x))

This bill:

1) Adds to intent language that it is the intent of the Legislature that DDS makes measurable improvements towards achieving equity in outreach and program promotion by race, ethnicity, and regional center for the SDP.

2) Requires DDS, no later than January 1, 2026, to establish statewide standardized processes and procedures for the SDP. Requires DDS to ensure that these standardized processes and procedures are consistently applied by each regional center and make measureable improvements toward achieving equitable enrollment by race, ethnicity, and regional center. Further requires that any regional center variation from the standardized processes and procedures must be approved by DDS. Requires the standardized processes and procedures to include, but not be limited to, all of the following: enrollment, individual budgets, FMS, access to self-directed and transition supports, spending plan, and FMS monthly spending report.

3) Requires a regional center to attach any revised spending plan to a participant's IPP. Requires a regional center to promptly send a copy of the spending plan and authorizations to the FMS provider.

4) Requires a regional center to review the spending plan only to verify that goods and services are eligible for federal financial participation and are not used to fund goods or services available through generic agencies. Requires a regional center to ensure that participant choice is respected. Specifies that, after the spending plan is developed, the participant is responsible for assigning amounts to the uniform budget categories developed by DDS and adjust the spending plan as needed when actual costs differ from the estimated cost of services. Requires the spending plan to identify the type of provider for each service, and specifies a provider name is not required as part of the spending plan. Specifies that any provision of this paragraph deemed to be ineligible for federal funding pursuant to written notice provided to DDS by the federal government shall not be implemented.

5) Requires a regional center to pay the full costs of a participant's FMS provider, and requires the costs of the FMS provider to be clearly and individually identified in the monthly report sent to the participant. Requires an FMS provider to purchase services and goods in the spending plan or revised spending plan without additional review from the regional center. Specifies an FMS provider serving as a sole employer is individually responsible for any fees, penalties, or fines resulting from its failure to comply with the state and federal labor requirements. Specifies that any provision of this paragraph deemed to be ineligible for federal funding pursuant to written notice provided to DDS by the federal government shall not be implemented.

6) Incorporates changes proposed by SB 1463 (Niello) to be operative only if this bill and SB 1463 are both enacted and this bill is enacted last.

Background

Individual Program Plan (IPP). Services for individuals with intellectual and developmental disabilities are outlined in an IPP, which is developed according to the needs and personal choices of the individual. The IPP is developed by an IPP team, which often includes the consumer, their legally authorized representative, and one or more regional center representatives. The IPP serves as a tool to maximize the opportunities for each consumer to develop relationships, integrate into community life, increase control over their life, and obtain positive roles in the community. The IPP is required to prioritize the services and supports that allow minors to live with their families and adults to live in the community as

independently as possible. Regional center consumers receiving traditional services, meaning they are not enrolled in the SDP, are assigned a service coordinator who is responsible for implementing, overseeing, and monitoring the consumer's IPP.

Self-Determination Program (SDP). SB 1038 (Thompson, 1998) established a three-year Self-Determination Pilot Project. The goal of the pilot project was to enhance the ability of a consumer and their family to control the decisions and resources required to meet all or some of the objectives in their IPP. After their IPP is developed, a participant must request a budget meeting where a 12-month budget and spending plan are developed based on the IPP needs and goals. Then, a financial management service (FMS) and payer model are selected, and the individual or their representative can then begin hiring service providers.

SB 468 (Emmerson, 2013) established a statewide SDP at all 21 regional centers, to be phased in over three years and serve up to 2,500 participants. The SDP became available to all consumers receiving regional centers services on July 1, 2021. Data broken down into race and ethnicity demographics shows that SDP enrollment does not reflect the racial/ethnic composition of the regional center consumer population. In its 2023–24 Budget report on DDS, the Legislative Analyst's Office (LAO) states that "white consumers comprise a plurality of SDP participants (45 percent), despite making up only 30 percent of all DDS consumers. By comparison, Latino consumers comprise only 23 percent of SDP participants, but 40 percent of all DDS consumers."

Ongoing Racial Disparities in Developmental Services. There is longstanding documentation about disparities in the amount of spending on services amongst racial and ethnic groups. According to DDS, within the regional center system, 24% of individuals served speak a language other than English and 72% of all consumers served by DDS are non-white. However, studies consistently find that communities of color are less likely to receive regional center services, and receive lower than average per capita purchase of service compared to white individuals. Some stakeholders state this may be in part due to other factors, such as age demographics within racial/ethnic groups and cultural preferences for care services. Several DDS initiatives are currently underway with the goal of improving language access and reducing disparities within the developmental services system more broadly.

Financial Management Services (FMS). Under the SDP, each participant receives an individual budget as a dollar amount for how much they can spend over the

course of a 12-month period. They then establish a spending plan to budget for the actual costs of services and supports, up to the amount of the individual budget. Each regional center vendors with FMS providers to issue payment for SDP services. FMS providers assist participants in managing their individual budgets, handling financial transactions, and ensuring compliance with SDP guidelines.

February 2024 Town Hall Report. In February 2024, the Statewide Self-Determination Advisory Committee (SSDAC) issued a report to DDS summarizing feedback and recommendations collected at a December 2023 town hall event on FMS. According to the report, "The rise in demand for enrollment in the SDP has placed a strain on the businesses that provide Financial Management Services to SDP participants. Throughout 2023, [DDS], the Office of the Ombudsperson, and the [SSDAC] were made aware of 'the FMS crisis,' a catchall phrase used to describe a variety of issues that consumers were experiencing. This includes long waitlists, lack of access to FMS providers, issues with billing, delayed payment, and dropped services."

Related/Prior Legislation

SB 1463 (Niello, 2024) of the current Legislative Session requires the Governor to appoint a Deputy Director of Self-Determination, responsible for overseeing the implementation and operation of the SDP. SB 1463 is pending on the Senate Floor.

AB 1147 (Addis, 2023) would have required DDS standardized information packets to be culturally competent for all racial and ethnic communities, and to include specified appeals, procedures, and information on the SDP, among other changes to the developmental services system. AB 1147 is pending on the Assembly Floor.

SB 468 (Emmerson, Chapter 683, Statutes of 2013) established the statewide SDP to provide individuals and their families with more freedom, control, and responsibility in choosing services and supports to help them meet objectives in their IPP.

AB 1472 (Committee on Budget, Chapter 25, Statutes of 2012), a budget trailer bill, required DDS and regional centers to annually collaborate to compile purchase of service data at each regional center with respect to the age of consumer, race or ethnicity of the consumer, primarily language spoken by the consumer, and disability detail, as specified.

SB 1038 (Thompson, Chapter 1043, Statutes of 1998) created a three-year pilot project for local self-determination programs.

Comments

This bill seeks to increase standardization and consistency for statewide implementation of the SDP across the regional center system and increase communication between regional centers, FMS providers, and program participants. Although the regional center system has a history of protecting regional center independence and local control, the SDP is one area where regional centers seem to welcome increased guidance and state control. Increased standardization and communication may result in easier program navigation for participants and their families. This bill also seeks to address the "FMS crisis" by making billing more transparent for participants.

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

According to the Assembly Appropriations Committee analysis, "DDS estimates total costs of approximately $2.8 million ($2.4 million General Fund (GF)) in the first year, and $5.5 million ($4.3 million GF) for the second year and annually thereafter, assuming a January 1, 2026, effective date. These costs include:"

1) "Approximately $613,000 ($490,000 GF) for four permanent positions to establish statewide standardized processes and procedures for the SDP across all regional centers, which includes enrollment, individual budgets, financial management services, access to self-directed and transition supports, spending plans, and a financial management services monthly spending report."

2) "Unknown, but potentially significant costs to require regional centers to modify their review of participant spending plans and implement other spending plan changes. Additionally, these proposed changes may jeopardize federal funding for the program and further increase GF cost pressures."

   "According to DDS, a comprehensive review of each individual's spending plan by a regional centers is necessary to verify that (a) services and supports are eligible for federal financial participation, (b) providers are qualified and meet state and federal requirements to provide services, and (c) the actual services provided are in alignment with those described in the SDP federal waiver. Regional center review of services and supports confirms the items listed on a spending plan support an individual's IPP goals and the health and safety of the individual served. Modification of regional center review of participant spending plans, as required by this bill, poses a risk for the state's

Self-Determination Program Waiver approval, thus jeopardizing federal funding, and potentially impacting GF costs."

3) "Cost pressures of an unknown amount to expand the number of financial management service providers to ensure participants have a choice of financial management service providers for all budget sizes."

4) "Approximately $1.5 million GF to assess the solvency of financial management service providers at each regional center, including the adequacy, availability, and solvency for all sizes of spending plans, and to provide information to the Legislature annually."

"According to the Legislative Analyst's Office, the General Fund faces a structural deficit in the tens of billions of dollars over the next several fiscal years."

SUPPORT: (Verified 8/27/24)

Disability Voices United (co-source)
Integrated Community Collaborative (co-source)
Ally Comprehensive Services LLC
Association of Regional Center Agencies
Autism Speaks
Autism Support Community
Dir/floortime Coalition of California
Disability Rights California
Easterseals Southern California
Educate. Advocate.
Fasd Network of Southern California
Greenhouse Therapy Center
North Los Angeles County Regional Center Self-determination Local Advisory Committee
Scdd

OPPOSITION: (Verified 8/27/24)

None received

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8/30/24 17:27:11

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

SENATE RULES COMMITTEE
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UNFINISHED BUSINESS

Bill No: SB 1283
Author: Stern (D), et al.
Amended: 8/12/24
Vote: 21

SENATE EDUCATION COMMITTEE: 6-0, 4/10/24
AYES: Newman, Ochoa Bogh, Cortese, Glazer, Gonzalez, Wilk
NO VOTE RECORDED: Smallwood-Cuevas

SENATE FLOOR: 35-0, 5/23/24
AYES: Alvarado-Gil, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Durazo, Eggman, Glazer, Gonzalez, Grove, Hurtado, Jones, Laird, Limón, McGuire, Menjivar, Min, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Skinner, Stern, Umberg, Wahab, Wiener, Wilk
NO VOTE RECORDED: Allen, Archuleta, Dodd, Newman, Smallwood-Cuevas

ASSEMBLY FLOOR: 51-0, 8/30/24 – Roll call vote not available

SUBJECT: Pupils: use of social media

SOURCE: Author

DIGEST: This bill authorizes a school district, a county board of education, or a charter school to adopt a policy to limit or prohibit students from using social media while at a schoolsite or under the supervision and control of an employee of the school district, county office of education (COE), or charter school.

Assembly Amendments move the contents of the bill into a new section immediately following Section 48901.7. Remove the definition of "educational purposes" as that term is not referenced in the bill. Remove the requirement for schools to provide a written disclosure of a pupil's rights, as specified. Clarify that this authorization does not include the monitoring, collecting, or otherwise accessing any information related to a student's online activities.

ANALYSIS:

Existing law:

Education Code (EC)

1) The governing body of a Local Educational Agency (LEA), County Office of Education (COE), or charter school may adopt a policy to limit or prohibit the use by its pupils of smartphones while the pupils are at a schoolsite or while the pupils are under the supervision and control of an employee or employees of that LEA, COE, or charter school. (EC § 48901.7 (a))

2) States a pupil shall not be prohibited from possessing or using a smartphone under any of the following circumstances:

   a) In the case of an emergency, or in response to a perceived threat of danger.

   b) When a teacher or administrator of the LEA, COE, or charter school grants permission to a pupil to possess or use a smartphone, subject to any reasonable limitation imposed by that teacher or administrator.

   c) When a licensed physician and surgeon determines that the possession or use of a smartphone is necessary for the health or well-being of the pupil.

   d) When the possession or use of a smartphone is required in a pupil's individualized education program. (EC § 48901.7 (b))

3) Authorizes the governing board of each school district, or its designee, to regulate the possession or use of any electronic signaling device that operates through the transmission or receipt of radio waves, including but not limited to, paging and signaling equipment, by students of the school district while the students are on campus, while attending school-sponsored activities, or while under the supervision and control of school district employees. (EC § 48901.5 (a))

4) Provides that no student shall be prohibited from possessing or using an electronic signaling device that is determined by a licensed physician and

surgeon to be essential for the health of the student and use of which is limited to purposes related to the health of the student. (EC § 48901.5 (b))

5) Except as provided in this section, a government entity shall not do any of the following:

   a) Compel the production of or access to electronic communication information from a service provider.

   b) Compel the production of or access to electronic device information from any person or entity other than the authorized possessor of the device.

   c) Access electronic device information by means of physical interaction or electronic communication with the electronic device. This section does not prohibit the intended recipient of an electronic communication from voluntarily disclosing electronic communication information concerning that communication to a government entity. (Penal Code (PEN) § 1546.1(a))

6) A government entity may compel the production of or access to electronic communication information from a service provider, or compel the production of or access to electronic device information from any person or entity other than the authorized possessor of the device only under a warrant, wiretap order, order for electronic reader records, a subpoena, or an order for a pen register or trap and trace device, or both, as specified. (PEN § 1546.1 (b))

7) States a government entity may access electronic device information by means of physical interaction or electronic communication with the device with, including but not limited to, a warrant, wiretap order, tracking device search warrant, consent of the authorized possessor of the device, consent of the owner of the device, only when the device has been reported as lost or stolen, believes that an emergency involving danger of death or serious physical injury to any person, believes the device to be lost, stolen, or abandoned, as specified. (PEN § 1546.1 (c))

This bill:

1) Authorizes the governing board of a school district, a county board of education, or the governing body of a charter school to adopt a policy to limit or prohibit students from using social media while at a schoolsite or when they are

under the supervision and control of an employee of the school district, COE, or charter school.

2) Clarifies that this authorization does not include the monitoring, collecting, or otherwise accessing any information related to a student's online activities.

Comments

1) *Need for the bill.* According to the author, "As a concerned parent and legislator, I am deeply troubled by the increase in youth suicide attributed to bullying and social media usage in our schools. Recent research shows the link between excessive social media exposure and heightened depression and anxiety amongst our students. Recognizing the urgent need to protect our children, I am committed to SB 1283 which helps school district's regulate the presence of social media and smartphones on school campuses statewide. It is life or death for our students and we must move quickly to mitigate the risks of smartphone addiction and online bullying during school hours, ensuring the protection of our most vulnerable Californians."

2) *A growing body of peer-reviewed research is examining the connection between technology use and teenage student mental health.* The U.S. Surgeon General issued an advisory about the effects of social media use on youth mental health in 2023. The Surgeon General issued a call for urgent action by policymakers, technology companies, researchers, families, and young people alike to gain a better understanding of the full impact of social media use, maximize the benefits and minimize the harms of social media platforms, and create safer, healthier online environments to protect children. The advisory stated:

   a) While social media may offer some benefits, there are ample indicators that social media can also pose a risk of harm to the mental health and well-being of children and adolescents;

   b) Children are affected by social media in different ways, including based on cultural, historical, and socio-economic factors. Among the benefits, adolescents report that social media helps them feel more accepted (58%), like they have people who can support them through tough times (67%), like they have a place to show their creative side (71%), and more connected to what's going on in their friends' lives (80%);

   c) Studies have also shown a relationship between social media use and poor sleep quality, reduced sleep duration, sleep difficulties, and depression among youth; and

d) More research is needed to determine the full impact social media use has on nearly every teenager across the country.

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

SUPPORT: (Verified 8/28/24)

California Chamber of Commerce
California State PTA
California Teachers Association
CFT, a Union of Educators and Classified Professionals, AFT, AFL-CIO
Los Angeles County Office of Education
Organization for Social Media Safety
TechNet

OPPOSITION: (Verified 8/28/24)

California Policy Center

ARGUMENTS IN SUPPORT: According to the Los Angeles County Office of Education (LACOE) writes, "LACOE recognizes the importance of providing a safe and conducive learning environment for all students. By explicitly prohibiting the use of social media while on school grounds or under school supervision, SB 1283 will help prevent distractions, cyberbullying, and other forms of inappropriate behavior that can negatively impact students' academic performance and well-being. Moreover, the proposed language in SB 1283 will provide much-needed clarity for local educational agencies (LEAs) in addressing instances of harassment, threats, or other misconduct occurring through social media channels during school hours or while students are under school supervision. This clarity will enable LEAs to take prompt and appropriate action to address such incidents and ensure the safety and security of all students and staff."

ARGUMENTS IN OPPOSITION: According to the California Policy Center, "SB 1283 is essentially state sanctioned spying. School districts should not be asking parents for permission to snoop on their children's cellphones – which may be the property of the parents – especially with the intent to hide concerning information found on those devices from said parents because the school thinks those parents are not equipped to deal with revealed information after the parents gave permission to snoop in the first place. By implication, this bill acknowledges that the search parameters it's authorizing are highly likely to reveal other sordid and compromising information about the children, no matter how well-intended or

careful a school official may be scrolling through kids' cellphones. The examples of potential misuse of this policy change are unending and the bill's vibes are more Stasi than Orwellian."

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8/30/24 17:27:12

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

SENATE RULES COMMITTEE SB 1286
Office of Senate Floor Analyses
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UNFINISHED BUSINESS

Bill No: SB 1286
Author: Min (D)
Amended: 8/23/24
Vote: 21

SENATE BANKING & F.I. COMMITTEE: 4-2, 4/17/24
AYES: Limón, Caballero, Min, Portantino
NOES: Niello, Nguyen
NO VOTE RECORDED: Bradford

SENATE JUDICIARY COMMITTEE: 9-2, 4/23/24
AYES: Umberg, Allen, Ashby, Caballero, Durazo, Gonzalez, Laird, Min, Wahab
NOES: Wilk, Niello

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 28-9, 5/21/24
AYES: Archuleta, Ashby, Atkins, Becker, Blakespear, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hurtado, Laird, Limón, McGuire, Menjivar, Min, Newman, Padilla, Portantino, Rubio, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener
NOES: Alvarado-Gil, Dahle, Grove, Jones, Nguyen, Niello, Ochoa Bogh, Seyarto, Wilk
NO VOTE RECORDED: Allen, Bradford, Roth

ASSEMBLY FLOOR: 49-17, 8/29/24 - See last page for vote

SUBJECT: Rosenthal Fair Debt Collection Practices Act: covered debt: commercial debts

SOURCE: Cameo -California Association for Micro Enterprise Opportunity
Consumer Federation of California
East Bat Community Law Center
Small Business Majority

DIGEST: This bill expands the scope of the Rosenthal Fair Debt Collection Practices Act (Rosenthal Act) to cover specified commercial debt, providing certain debtors with protections from harassment and other prohibited collections activities.

Assembly Amendments provide that this bill applies to commercial debt entered into, renewed, sold, or assigned on or after July 1, 2025; provide that this bill does not impose a licensing requirement for commercial debt collection; limit the scope of covered commercial debt to situations where the debtor does not owe more than $500,000 to the same lender, commercial financing provider, or debt buyer, as specified; exempts a covered commercial debt from the prohibition on communicating information about a debt to a member of the debtor's family; and make other technical changes.

ANALYSIS:

Existing law:

1) Regulates the collection of consumer debt under the Rosenthal Act, which generally prohibits deceptive, dishonest, unfair, and unreasonable debt collection practices by debt collectors and regulates the form and content of communications by debt collectors to debtors and others. (Title 1.6C of Part 4 of Division 3 of the Civil Code, Section 1788 et seq.) The Rosenthal Act:

    a) Defines the following terms:

        i) "Consumer debt" and "consumer credit" means money, property, or their equivalent, due or owing or alleged to be due or owing from a natural person by reason of a consumer credit transaction. The term "consumer debt" includes a mortgage debt.

        ii) "Consumer credit transaction" means a transaction between a natural person and another person in which property, services, or money is acquired on credit by that natural person from the other person primarily for personal, family, or household purposes.

        iii) "Debt collector" means any person who, in the ordinary course of business, regularly, on behalf of that person or others, engages in debt collection.

        iv) "Debt collection" means any act or practice in connection with the collection of consumer debts. (Civil Code Section 1788.2)

b) Prohibits a debt collector from the following conducts or practices, among others, when collecting or attempting to collect a consumer debt:

   i) The use or threat of physical force or violence. (Civil Code Section 1788.10)

   ii) Threats and communications that rely on false representations. (Civil Code Section 1788.10 and 1788.13)

   iii) Using obscene or profane language. (Civil Code Section 1788.11)

   iv) Communicating with the debtor with such frequency as to be unreasonable, and to constitute harassment of the debtor under the circumstances. (Civil Code Section 1788.11)

   v) Communicating unnecessarily about the debtor's debt with the debtor's employer or extended family. (Civil Code Section 1788.12)

c) Requires a debt collector to provide its California debt collector license number to a consumer in specified circumstances. (Civil Code Section 1788.11)

d) Incorporates by reference specified provisions of the federal Fair Debt Collection Practices Act into state law. (Civil Code Section 1788.17)

e) Provides remedies to a harmed debtor in an amount equal to any actual damages sustained by the debtor as a result of violation, plus an amount of $100 - $1,000 if the violation was conducted willfully and knowingly by the debt collector. (Civil Code Section 1788.30)

f) Provides a release from liability to a debt collector who cures a violation, as specified, or who shows by a preponderance of evidence that the violation was not intentional and resulted notwithstanding the maintenance of procedures reasonably adapted to avoid any such violation. (Civil Code Section 1788.30)

2) Provides the Debt Collection Licensing Act (DCLA) that prohibits a person from engaging in the business of the collection of consumer debt without a license and requires the Department of Financial Protection and Innovation to administer the licensing program. (Division 25 of the Financial Code, Section 100000 et seq.)

This bill:

1) Adds “covered commercial debt” to the Rosenthal Act, subjecting persons that engage in debt collection related to a covered commercial debt to that act.

2) Defines the following terms:

   a) “Covered debt” means a consumer debt or a covered commercial debt.

   b) “Covered credit” means consumer credit or covered commercial credit.

   c) “Covered commercial debt” and “covered commercial credit” mean money due or owing or alleged to be due or owing from a natural person to a lender, a commercial financing provider, or a debt buyer, as specified, by reason of one or more covered commercial credit transactions, provided the total amount of all covered commercial credit transactions and all other noncovered commercial credit transactions due and owing by the debtor to the same lender, commercial financing provider, or debt buyer is no more than $500,000, as specified.

   d) “Covered commercial credit transaction” means a transaction between a person and another person in which a total value of no more than $500,000, is acquired on credit by that person from the other person primarily for other than personal, family, or household purposes.

3) Provides that a debtor includes a natural person who guarantees an obligation related to a covered commercial credit transaction and does not include a corporation or limited liability company.

4) Replaces “consumer debt” with “covered debt” throughout the Rosenthal Act, except in provisions related to communications with a debtor’s employer or a debtor’s family, consumer debt originated by a hospital, and an incorporation by reference of provisions of specified federal law related to consumer debt collection.

5) Authorizes a debt collector to collect covered commercial debt by means of a judicial proceeding in the county in which the nonnatural person for whose purpose the commercial debt was incurred is located.

6) Provides that this bill does not impose a licensing requirement for the collection of covered commercial debt.

7) Provides that this bill applies to covered commercial credit or covered commercial debt entered into, renewed, sold, or assigned on or after July 1, 2025.

Comments

Author's Statement. According to the author:

> Navigating the small business lending landscape is a longstanding, serious challenge for entrepreneurs. Traditional bank lending to small businesses is inaccessible to most entrepreneurs, especially entrepreneurs of color and women entrepreneurs. Alternative lenders have stepped in to fill this gap, but do not operate under the same regulations as traditional lenders. Since the 2008 Great Recession, many lenders started requiring business owners to personally sign for their business debt. Lenders are within their right to require co-signatories, however a personal guarantee defeats the purpose of an LLC and is antithetical to the purpose of entity formation. Given the lack of access to traditional business funding and the current trend of requiring personal guarantees, the need for dignified debt collection practices for individuals who incur debt for their business is necessary as small businesses do not have the same protections as consumers in the collection of a business debt. SB 1286 would extend the consumer debt collection protections provided under the Rosenthal Act to small business owners.

Background

This bill seeks to extend the scope of the Rosenthal Fair Debt Collection Practices Act ("Rosenthal Act") to certain commercial debts. At its essence, the Rosenthal Act seeks to protect consumers from unfair and deceptive practices by a person collecting consumer debt. The law prohibits or restricts a variety of activities designed to intimidate or annoy, such as calling a debtor in the middle of the night; letting a phone ring incessantly; threatening actions that the debt collector cannot or does not plan to take; threatening or using violence; contacting a debtor's friends, employers, or extended family to notify them of the debtor's debt; and using obscene or threatening language. The law also prohibits various false representations, unfair practices, and improper use of judicial proceedings.

The remedies provided by the Rosenthal Act are fairly modest. Nothing in the Rosenthal Act allows for the forgiveness or cancellation of debt. The law provides avenues to avoid liability in the case of unintentional errors and a 15-day right to cure any violation. If a debt collector violates the law, they may be found liable for actual damages sustained by the debtor, but often such damages are related to stress and not monetary in nature. For a debt collector who willfully and knowingly violates the law, the Rosenthal Act provides a minimum liability of

$100 and maximum liability of $1,000, in addition to any actual damages incurred and reasonable attorney's fees.

Expanding the scope of Rosenthal. This bill adds specified commercial debts to the scope of the Rosenthal Act, which would grant the same protections to persons owing these commercial debts as are provided by existing law to persons owing consumer debt. This bill expands the scope of Rosenthal to cover debts that meet all of the following criteria:

- *Who owes?* The debt must be owed by a natural person. The author intends to cover debts owed directly by a natural person or where a natural person has co-signed or provided a personal guarantee on a credit product. The author does not intend to cover a debt owed by a business entity, such as a corporation or LLC, that does not contain a personal guarantee.

- *What for?* The underlying credit transaction was undertaken "for use primarily for other than personal, family, or household purposes." This phrase is used in the California Financing Law to distinguish a "commercial loan" from a "consumer loan."

- *Owed to whom?* The debt must be owed to a lender, a commercial financing provider, or a debt buyer. This keeps credit transactions between two non-financial businesses outside of the scope of Rosenthal, meaning a supplier that provides goods on credit will not be deemed a debt collector.

- *How much is owed?* The underlying credit transaction that created the debt cannot exceed $500,000. This same threshold exists for the state's commercial financing disclosure law and a law enacted last year that prohibits certain "junk fees" on commercial financing transactions. Amendments adopted by the Assembly apply this limit cumulatively to all amounts owed by the debtor to a specific lender, commercial financing provider, or debt buyer. For example, a debtor who owes $400,000 on one loan and $200,000 on another loan from the same lender will not be covered by this bill as the cumulative amount owed exceeds $500,000.

Is the Rosenthal Act Appropriate for Commercial Debt? The Rosenthal Act was enacted in 1977 to regulate the collection of consumer debt. Some of its provisions, such as prohibitions on threats and harassment, can be readily applied to collections related to commercial debt. Other provisions, however, may be less suitable. For example, one provision prohibits a debt collector from communicating with a debtor's employer, which does not contemplate a situation where the debtor is self-employed and the debt is related to the debtor's

commercial activities. Additionally, the Rosenthal Act incorporates by reference provisions of the Federal Fair Debt Collections Practices Act (FDCPA), which covers consumer debt and cannot be used as a basis for a person collecting a commercial debt to "comply" with. The bill has been amended to address these potential incongruities.

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

According to the Assembly Appropriations Committee,

1) Minor and absorbable costs to the Department of Financial Protection and Innovation (DFPI) to update manuals, examinations, and procedures. DFPI does not license debt collectors, but does license lenders and has the authority to oversee other consumer financial products or services through the California Consumer Financial Protection Law.

2) Annual cost pressures (General Fund (GF) or Trial Court Trust Fund (TCTF)) of an unknown amount, potentially up to $150,000, to the courts in additional workload by expanding application of the Rosenthal Act, including the existing private right of action for harmed consumers, to covered commercial debt. It is unclear how many civil 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 Budget Act of 2024 includes $37.3 million ongoing GF to backfill declining TCTF revenue.

SUPPORT: (Verified 8/26/24)

Cameo - California Association for Micro Enterprise Opportunity (co-source)
Consumer Federation of California (co-source)
East Bay Community Law Center (co-source)
Small Business Majority (co-source)
25 Individuals
Asian, INC.
Berkeley Law & Organizing Collective
Bet Tzedek Legal Services
California Coalition for Community Investment
California Coalition for Community Investment (CCCI)
California Low-income Consumer Coalition
Consumer Attorneys of California
Decosimo Law
Housing and Economic Rights Advocates (HERA)

Ica
LA Cocina
Microenterprise Collaborative of Inland Southern California
Public Counsel
Public Law Center
Renaissance Entrepreneurship Center
Responsible Business Lending Coalition
Rise Economy
San Juan Capistrano Chamber of Commerce
Sonya Yruel Photography
The Lisa B Company
Women's Economic Ventures

OPPOSITION: (Verified 8/26/24)

American Financial Services Association
California Association of Collectors, Inc.
California Bankers Association
California Chamber of Commerce
California Community Banking Network
California Credit Union League
California Creditors Bar Association
California Financial Services Association
California Mortgage Bankers Association
Cox Automotive, INC.
Electronic Transactions Association
Receivables Management Association International
Small Business Finance Association

ARGUMENTS IN SUPPORT: A coalition of small business and consumer advocacy organizations writes in support:

> Since the 1970s, federal and CA law has prohibited debt collectors from lying, calling repeatedly in the middle of the night, publicly humiliating borrowers to pressure them, and so on. BUT, those laws don't apply today to people when they borrow for a small businesses. SB 1286 simply extends the same protections that have applied on other loans since the '70s.

ARGUMENTS IN OPPOSITION: A coalition of organizations representing lenders and creditors writes in opposition:

> As amended, SB 1286 attempts to insert commercial debts into the Rosenthal Fair Debt Collections Practices Act (the Act), a section of law that specifically

contemplates nuances with individual consumers, not businesses. The Act contains some commonsense prohibitions on behavior that is deceptive or unreasonable, including prohibiting the use or threat of physical violence, using profane language, and threats that rely on false representations. The Act also contains provisions that are specific to individual consumers, such as prohibition of contacting a debtor's employer or restrictions on the jurisdiction of judicial proceedings, which make sense for individual consumers but do not comport in business commercial transactions.

ASSEMBLY FLOOR: 49-17, 8/29/24
AYES: Addis, Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Connolly, Mike Fong, Friedman, Gabriel, Garcia, Gipson, Grayson, Haney, Hart, Holden, Irwin, Jackson, Jones-Sawyer, Kalra, Lee, Low, Lowenthal, Maienschein, McCarty, McKinnor, Muratsuchi, Papan, Pellerin, Petrie-Norris, Quirk-Silva, Rendon, Reyes, Luz Rivas, Blanca Rubio, Santiago, Ting, Ward, Weber, Wicks, Wilson, Wood, Robert Rivas
NOES: Alanis, Chen, Megan Dahle, Davies, Dixon, Essayli, Flora, Gallagher, Hoover, Lackey, Mathis, Jim Patterson, Joe Patterson, Sanchez, Ta, Waldron, Wallis
NO VOTE RECORDED: Alvarez, Bains, Cervantes, Stephanie Nguyen, Ortega, Pacheco, Ramos, Rodriguez, Schiavo, Soria, Valencia, Villapudua, Zbur

Prepared by: Michael Burdick / B. & F.I. /
8/29/24 19:44:25

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

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UNFINISHED BUSINESS

Bill No: SB 1313
Author: Ashby (D)
Amended: 8/23/24
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 15-0, 4/9/24
AYES: Cortese, Niello, Allen, Archuleta, Becker, Blakespear, Dahle, Dodd, Gonzalez, Limón, Newman, Nguyen, Portantino, Seyarto, Umberg

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 36-0, 5/13/24
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Grove, Hurtado, Jones, Laird, Limón, McGuire, Min, Newman, Nguyen, Niello, Ochoa Bogh, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk
NO VOTE RECORDED: Atkins, Gonzalez, Menjivar, Padilla

ASSEMBLY FLOOR: 76-0, 8/29/24 - See last page for vote

SUBJECT: Vehicle equipment: driver monitoring defeat devices

SOURCE: Author

DIGEST: This bill prohibits a vehicle from being equipped with, or a person from using, a device that is designed for neutralizing or interfering with a driver monitoring system that is engaged when drivers are utilizing advanced driver assistance features or autonomous technology.

Assembly Amendments are technical.

ANALYSIS: Existing law requires potential drivers to pass a test of the driver's knowledge of traffic rules and ability to understand traffic signs and to demonstrate the drivers ability to exercise ordinary and reasonable control of a vehicle.

This bill:

1) Prohibits vehicles from being equipped with devices that are specifically designed or used for, neutralizing or interfering with a driver monitoring system that is engaged when drivers are utilizing advanced driver assistance features or autonomous technology.

2) Prohibits a person from using, buying, possessing, manufacturing, selling, advertising or distributing a device that is specifically designed for neutralizing or interfering with a driver monitoring system that is engaged when drivers are utilizing advanced driver assistance features or autonomous technology.

3) Establishes that violations of these prohibitions are infractions punishable by a fine of up to $100 for a first infraction, up to $200 for a second, and up to $250 for subsequent infractions.

4) Defines direct driver monitoring system to include interior and exterior cameras, systems that require a driver to maintain their hands on the steering wheel, distracted driver sensors, and systems that warn the driver when the driver is distracted.

Comments

1) *Author's Statement*. SB 1313 is a crucial step in ensuring the safety of drivers and pedestrians. This bill prohibits the use of devices that interfere with a vehicle's Active Driving Assistance System (ADAS) technology. ADAS technology offers safety monitoring and driving assistance, which has shown significant potential in reducing traffic collisions, injuries, and fatalities. However, the overriding of ADAS through manipulation devices undermines the effectiveness of vehicle safety technology, jeopardizing lives in the process. As active driving assistance technology becomes increasingly standard in vehicles, California's traffic laws must adapt to the misuse of technology to keep our roads safe. SB 1313 establishes the necessary measures to preserve the

functionality of safety technology and protects our roads from distracted drivers.

2) *Look Mom, No Hands.* Vehicles are increasingly equipped with driver assistance features which help the vehicle maintain speed, stay in the lane, or park. Unless the vehicle has been approved by the Department of Motor Vehicles as autonomous, the vehicle must be under the control of the driver at all times. Unfortunately, some drivers put too much faith in the technology mistaking driver assistance for vehicle autonomy, sometimes with tragic results. Vehicles are equipped with systems to deter drivers from such over-reliance, using pressure sensors to ensure the driver's hands are on the steering wheel or cameras to ensure that the driver's eyes are open and focused on the road. The bill refers to these as "driver monitoring systems", but those systems can be easily defeated.

   A quick search on the Internet shows several products that are explicitly marketed to over-ride the direct driver monitoring systems. These include simple devices such as steering wheel weights and more sophisticated equipment that must be plugged into the vehicle wiring. Vehicle manufacturers view these defeat devices as dangerous, bypassing the safety features designed to ensure the vehicle operates safely.

3) *Penalty*. This bill makes it an infraction for a person to use, buy, possess, manufacture, sell or distribute such devices. The penalty is a fine of up to $100 for a first infraction, up to $200 for a second infraction that occurs within one year of the first, and up to $250 for an infraction that occurs within a year of two or more prior infractions.

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

From the Assembly Appropriations Committee: Minor state costs, if any.

SUPPORT: (Verified 8/29/24)

Alliance for Automotive Innovation
Tesla

OPPOSITION: (Verified 8/29/24)

Oakland Privacy

ASSEMBLY FLOOR: 76-0, 8/29/24
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Chen, Connolly, Megan Dahle, Davies, Dixon, Essayli, Flora, Mike Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, Mathis, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, 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: Cervantes, Ortega, Zbur

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Prepared by: Randy Chinn / TRANS. / (916) 651-4121
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UNFINISHED BUSINESS

Bill No: SB 1419
Author: Rubio (D), et al.
Amended: 8/19/24
Vote: 21

SENATE AGRICULTURE COMMITTEE: 3-0, 4/16/24
AYES: Hurtado, Cortese, Padilla
NO VOTE RECORDED: Grove, Alvarado-Gil

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/16/24
AYES: Caballero, Jones, Ashby, Becker, Bradford, Seyarto, Wahab

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

ASSEMBLY FLOOR: 56-0, 8/30/24 – Roll call not available

SUBJECT: Food Desert Elimination Grant Program

SOURCE: Author

DIGEST: This bill establishes the Food Desert Elimination Grant Program which would provide grants to grocery store operators that open stores in areas defined as a food desert. This bill authorizes the California Department of Food and Agriculture to collect non-state, federal, and private funds, and would require those funds to be deposited into the California Equitable Food Access Account within the Food Desert Elimination Fund and would continuously appropriate moneys in the account to the department for purposes of the program. This bill establishes the

Food Desert Elimination Fund in the General Fund and would authorize monies from the fund to be used, upon appropriation, to run the program. Finally, this bill repeals these provisions on December 31, 2030.

Assembly Amendments make the program contingent upon appropriation by the Legislature and authorize the department to award grants to grocery store operators seeking to locate grocery stores in food deserts and to award grants, totaling no more than 20% of the program funding to grocery store operators for equipment upgrades for grocery stores located in food deserts to expand or provide healthy food for sale.

ANALYSIS:

Existing federal law:

1) Defines food deserts as both low-income areas and ones in which more than a third of the population lives over a mile from a grocery store/supermarket *(https://www.ers.usda.gov/data-products/food-access-research-atlas/documentation/)*.
2) Establishes under federal law the "Supplemental Nutrition Assistance Program" (SNAP) pursuant to the Food Stamp Act of 1964. *(7 United States Code Section 2011)*.

Existing state law:

1) Establishes the Office of Farm to Fork within the California Department of Food and Agriculture (CDFA) and requires the office to work with various entities to increase the amount of agricultural products available to underserved communities and schools in California (*Food and Agricultural Code Section 49001*).
2) Establishes the "CalFresh" program to administer the provision of federal SNAP benefits to families and individuals meeting certain criteria, as specified. (*Welfare and Institutions Code Section 18900*).
3) Requires the California Healthy Food Financing Initiative Council to implement an initiative to expand access to nutritious food in underserved, urban, and rural communities and to eliminate food deserts in California. (*Health and Safety Code 104660*).

This bill:

1) Establishes the Food Desert Elimination Grant Program (program), to be administered by the California Department of Food and Agriculture (CDFA).
2) Establishes criteria under which CDFA may award grants to a grocery store seeking to locate in a food desert. These include:

    a) A market and site feasibility study.
    b) Salaries and benefits to grocery store employees.
    c) Rents or down payments to acquire a facility located in a food desert.
    d) Capital improvements, planning, renovations, land acquisition, demolition, and durable and nondurable equipment purchases.
    e) Other costs determined by CDFA.
    f) Sunsets these provisions on December 31, 2030.

3) Authorizes the department to award grants to grocery store operators seeking to locate grocery stores in food deserts and to award grants, totaling no more than 20% of the program funding to grocery store operators for equipment upgrades for grocery stores located in food deserts to expand or provide healthy food for sale.

4) Makes the program contingent upon appropriation by the Legislature.

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

According to the Senate Committee on Appropriations:

- This bill would result in a cost pressure to provide grant funding. The magnitude is unknown, but at a minimum would be in the millions of dollars (General Fund)

- The California Department of Food and Agriculture (CDFA) would incur first-year costs of $358,000, and $352,000 annually thereafter, to administer the grant program (General Fund).

Amendments were taken on 8/19/24 to make the program contingent upon funding appropriated by the Legislature.

SUPPORT: (Verified 8/27/24)

California Grocers Association
American Diabetes Association

OPPOSITION: (Verified 8/27/24)

None received

ARGUMENTS IN SUPPORT:

According to the author:

> "Currently in California, there is not a financing mechanism to assist healthy food retail outlets to expand offerings to food insecure residents in food desert areas. This critical bill will create the Food Desert Elimination Act of 2024 which would establish a fund and a tax credit for grocery store operators within a designated food desert to help address food insecurity and poverty issues for our most vulnerable or at risk communities across the state. It is imperative to ensure our underserved communities receive access to healthy food options, especially those who live in food deserts. Research suggests that establishing a grocery store in low-income neighborhoods will have positive impacts on community health and well-being and will benefit our local economies. The fund, when paired with the state's existing supplemental benefits, will help eliminate food deserts and increase affordability and access to fresh groceries in underserved areas."

The California Grocers Association write in support stating:

"SB 1419 offers a promising solution by incentivizing the establishment and continuation of grocery stores in food desert areas. This builds upon successful models in California and other states. By providing grants to cover startup costs and offering employment tax credits for the first five years of operation, this legislation encourages grocery operators to invest in underserved communities, thereby increasing access to nutritious food options."

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Prepared by: Reichel Everhart / AGRI. / (916) 651-1508
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UNFINISHED BUSINESS

Bill No: SB 1451
Author: Ashby (D)
Amended: 8/26/24
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 12-0, 4/22/24
AYES: Ashby, Nguyen, Alvarado-Gil, Archuleta, Becker, Dodd, Eggman, Glazer, Niello, Roth, Smallwood-Cuevas, Wilk
NO VOTE RECORDED: Menjivar

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 36-0, 5/13/24
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Grove, Hurtado, Jones, Laird, Limón, McGuire, Min, Newman, Nguyen, Niello, Ochoa Bogh, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk
NO VOTE RECORDED: Atkins, Gonzalez, Menjivar, Padilla

ASSEMBLY FLOOR: 49-0, 8/30/24
(ROLL CALL NOT AVAILABLE)

SUBJECT: Professions and vocations

SOURCE: Author

DIGEST: This bill makes various changes to the operations of programs governed by practice acts in the Business and Professions Code (BPC) and various professions regulated by these programs, stemming from prior sunset review oversight efforts.

Assembly Amendments make various technical and conforming changes; waive fees for military and military spouse expedited licensure; strike obsolete reference in the Dental Hygiene Practice Act; clarify physician licensure renewal for

postgraduates; revert to existing law limiting the completion of a transition to practice in only California; extend the authority for pharmacists to furnish COVID-19 oral therapeutics until January 1, 2026; update the California Massage Therapy Council (CAMTC) sunset date and update CAMTC board member terms; authorize tribal licensure by the Bureau of Automotive Repair and ; exempt out-of-state household movers regulated by the Bureau of Household Goods and Services (BHGS) from certain requirements, as specified.

ANALYSIS:

Existing law:

1) Requires the Dental Board of California (DBC) to approve, modify, or reject recommendations by the Dental Hygiene Board of California (DHBC) regarding scope of practice issues within 90 days of submission of the recommendation. (BPC § 1905.2)

2) Authorizes registered dental hygienists in alternative practice (RDHAP) in only limited settings including residences of the homebound; schools; residential facilities and other institutions; and, dental health professional shortage areas (DHPSA), as certified by the Department of Health Care Access and Information to perform specified, narrow services. (BPC § 1926)

3) Prohibits any person who does not have a valid, unrevoked, and unsuspended certificate as a physician and surgeon from the Medical Board of California (MBC) from using the words "doctor" or "physician," the letters or prefix "Dr.," the initials "M.D.," or any other terms or letters indicating or implying that they are a physician and surgeon, with certain exceptions. (BPC § 2054)

4) Makes it unlawful for any healing arts licensee to publically communicate a false, fraudulent, misleading, or deceptive statement, claim, or image for the purpose of or likely to induce, directly or indirectly, the rendering of professional services in connection with the professional practice or business for which they are licensed. (BPC § 651)

5) Makes it unlawful for any person to make or disseminate any statement in the advertising of services, professional or otherwise, which is untrue or misleading. (BPC § 17500)

6) Authorizes an independently practicing nurse practitioner (NP) to perform specified functions in a defined healthcare setting if the NP has met specified requirements and authorizes a NP who meets these requirements to practice in an outpatient health facility, except for a correctional treatment center or a state

hospital; a health facility including a general acute care hospital; a county hospital; a medical group practice, including a professional medical corporation, as specified, another form of corporation controlled by physicians, a medical partnership, a medical foundation exempt from licensure, or another lawfully organized group of physicians that provide healthcare services; and a licensed hospice facility. (BPC §§ 2837.103, 2837.104)

7) Defines a transition to practice (TTP) for purposes of NP independent practice to mean "additional clinical experience and mentorship provided to prepare a NP to practice independently, and includes, but is not limited to, managing a panel of patients, working in a complex healthcare setting, interpersonal communication, interpersonal collaboration and team-based care, professionalism and business management of a practice." (BPC § 2837.101(c))

8) Specifies various activities that are not prohibited by the Respiratory Care Practice Act, including a licensed vocational nurse (LVN) employed by a home health agency who has met certain training requirements performing Respiratory Care Board of California (RBC)-specified respiratory services. (BPC § 3765 (i))

9) Establishes the Massage Therapy Act until January 1, 2027 to provide for the voluntary certification of massage therapists by CAMTC, a private nonprofit organization. (BPC §§ 4600 *et seq.*)

10) Authorizes pharmacists to furnish COVID-19 oral therapeutics to patients who test positive for SARS-CoV-2, without a prior prescription, until January 1, 2025. (BPC § 4052.04)

11) Requires that, each time a veterinarian initially prescribes, dispenses, or furnishes a dangerous drug to an animal patient in an outpatient setting, the veterinarian shall offer to provide, verbally, in writing, or by email to the client, a consultation including specified information. (BPC § 4829.5(a)

12) Specifies that in order to become a licensed hairstylist, an applicant must be at least 17, complete 10th grade (or the equivalent of public school 10th grade), is not subject to denial based on having been convicted of a crime within a certain time frame that is substantially related to the qualifications, functions, or duties of being a hairstylist, and has either completed a course in hairstyling from a BBC-approved school or practiced hairstyling, as defined, in another state for a specified period of time. (BPC § 7322)

13) Establishes the Bureau of Automotive Repair (BAR) within the DCA to administer and enforce the Automotive Repair Act. (BPC § 9882)

14) Requires that, in order to engage in business of transportation of used household goods and personal effects, a household mover shall obtain a permit issued by the BHGS. (BPC § 19237(a))

This bill:

1) Specifies that if the DHPSA certification is removed, a RDHAP with an existing practice in the area may continue to provide dental hygiene services. Eliminates language requiring DHBC to submit recommendations regarding dental hygienist scope of practice to the DBC for approval.

2) Clarifies that no person shall use the words "doctor" or "physician," the letters or prefix Dr., the initials M.D. or D.O., or any other terms or letters indicating or implying that the person is a physician and surgeon, physician, surgeon, or practitioner in a health care setting that would lead a reasonable patient to determine that person is a licensed M.D. or D.O. Clarifies these prohibitions do not apply to a person holding a current and active license under another healing arts board, to the extent the use of the title is consistent with the act governing the practice of that license.

3) Make changes to the MBC's process for approving licenses for individuals still enrolled in postgraduate training.

4) Makes various changes to provisions in the Nursing Practice Act related to licensure of nurse practitioners practicing independently.

5) Clarifies that LVNs who have met specified requirements may perform specified respiratory care services as identified by the RCB in specified settings and according to certain patient-specific training satisfactory to their employer.

6) Updates CAMTC's sunset date from January 1, 2027 to January 1, 2026 and updates CAMTC board member terms and removal by their appointing authority.

7) Authorizes pharmacists to continue furnishing COVID-19 oral therapeutics to patients who test positive for SARS-CoV-2, without a prior prescription, until January 1, 2026.

8) Requires a pharmacist who dispenses or furnishes a dangerous drug pursuant to a veterinary prescription to include, as part of the consultation, the option for a representative of an animal patient to receive drug documentation specifically designed for veterinary drugs.

9) Clarifies that BBC can only charge a hairstylist application and examination fee in an amount equal to BBC's actual costs for developing, purchasing, grading, and administering the examination. Limits a hairstylist's initial license to not more than $50.

10) Replaces gendered language in the Structural Pest Control Act and eliminates the option for SPCB licensees to take challenge examinations in lieu of completing continuing education requirements.

11) Authorizes BAR to issue a license to a federally recognized tribe, as defined, and makes additional conforming changes.

12) Exempts out-of-state household movers regulated by the BHGS from residency requirements if they provide an agent of service for process.

13) Exempts applicants for household mover permits that only conduct inter-state moves from BHGS exam requirements upon the applicant signing an affidavit declaring they will not conduct any intrastate moves.

14) Requires the BHGS to identify on its internet website those movers that can conduct intrastate moves and those that can conduct interstate moves.

15) Makes technical amendments to the licensing requirements section of the Household Movers Act.

16) Make conforming changes and waive fees for military and military spouse expedited licensure by various boards and bureaus under the DCA.

Background

Registered Dental Hygienists in Alternative Practice. The issue of barriers to practice have been longstanding for RDHs, and particularly RDHAPs who are trained and authorized to provide unsupervised dental hygiene services in specified limited practice settings, settings that most likely result in a vulnerable and

challenging patient populations - children, individuals with limited access to healthcare (and therefore likely with more advanced oral health conditions), and patients with compromised mobility or other health concerns that impede their ability to get dental care in more traditional settings. Currently, a RDHAP may establish a practice in a dental health professional shortage area, but once that shortage is deemed to no longer exist, the RDHAP must relocate his or her practice.

Doctor Title Protection and Postgraduate Training. The Medical Practice Act currently prohibits any person from practicing or advertising as practicing medicine without a license. Statute specifically makes it a misdemeanor for any unlicensed person to use the words "doctor" or "physician," the letters or prefix "Dr.," the initials "M.D.," or any other terms or letters indicating or implying that the person is a licensed physician and surgeon on any sign, business card, or letterhead, or, in an advertisement. General provisions governing health professional licensing boards make it unlawful for any healing arts licensee to publically communicate any false, fraudulent, misleading, or deceptive statement, claim, or image for the purpose of rendering professional services in connection with their licensed practice.

MBC recently encountered some licensees who opted to conduct research for a period of time after obtaining their physician and surgeon license rather than continuing in clinical training. As a result, they could not show 36 months of training as required for license renewal and without an updated, they could not continue to be licensed.

Nurse Practitioners. AB 890 (Wood, Chapter 256, Statutes of 2020) set education and experience requirements for an NP to be eligible to practice independent of physician supervision. The BRN regulations further expanding on the TTP included requirements more stringent than AB 890 and which in some cases, do not include references that sync with current NP certification and the training and clinical experience of a NP. While some categories have a corresponding physician specialty, such as pediatrics, a "women's health" NP may have clinical experiences with a wide range of physician specialists and BRN regulations could leave those individuals without a physician to attest to their completion of the TTP.
The BRN regulations also narrowly define the TTP so that it must be completed in "direct patient care in the role of a [NP] in the category…in which the applicant seeks certification as a NP…".

Respiratory Care Services. SB 1436 (Roth, Chapter 624, Statutes of 2022) resolved a serious and long-standing consumer safety issue regarding the safe practice of respiratory care in health care facilities by allowing RCB to identify the basic respiratory tasks and services that could be safely delivered by LVNs. There is currently no legal path for LVNs to provide respiratory care services beyond basic care. Patients receiving home and community-based services often require advanced respiratory care. Respiratory care services are not "skilled nursing services." Respiratory patients are often the most vulnerable of the home and community-based patient population with an overwhelming majority of those patients reliant upon Medi-Cal reimbursement.

COVID-19 Therapeutics. On September 14, 2021, the Secretary of the federal Department of Health and Human Services, Xavier Becerra, issued a declaration authorizing pharmacists to independently order and administer any COVID-19 therapeutic in compliance with FDA authorization. While the EUAs for both Paxlovid and Lagevrio were expected to remain in effect until the FDA completed its full approval of these therapeutics, it was determined that pharmacists would likely only remain authorized to furnish the drugs directly to patients until the federal stockpile established during the EUA has expired. AB 1341 (Berman, Chapter 276, Statutes of 2023) preserved the ability of pharmacists in California to continue furnishing these drugs directly to patients after the federal authorization has ended, until January 1, 2025. This bill further extends that sunset date by one additional year, authorizing pharmacists to furnish oral therapeutics for COVID-19 until January 1, 2026.

Barbering and Cosmetology Hairstylist License. In 2021, SB 803 (Roth, Chapter 648, Statutes of 2021) continued the operations of the BBC until January 1, 2027 and made various technical changes, statutory improvements, and policy reforms to the Act based on the joint sunset review oversight of BBC by the Senate Committee on Business, Professions, and Economic Development and Assembly Committee on Business and Professions. SB 803 established a separate hairstylist license and outlined a specified practice of hairstyling that includes arranging, dressing, curling, cleansing, and shampooing, among other hair-specific beautification practices that utilize instruments or require chemical products to be applied.

Structural Pest Control. The Structural Pest Control Act requires that licensees fulfill CE requirements by completing industry-relevant courses to stay fluent with technology and accepted professional practices. Instead of completing CE courses, current law also provides an alternative option of taking and successfully

completing an examination. Currently, BPC sections 8593 and 8593.1 require the SPCB offer examinations to its licensees to take in lieu of completing their CE requirements. On March 6, 2017, the United States Environmental Protection Agency (U.S. EPA) revised the federal rule for certification and recertification of applicators of restricted use pesticides under the Code of Federal Regulations Part 171 (40 CFR 171). This affects SPCB's Field Representative and Operator license types because the federal rule specifies that if recertification is based upon written examination, the State must ensure the examination evaluates whether the licensee demonstrates the level of competencies.

Automotive Repair Licensure of Tribes. Current law does not authorize BAR, which licenses and regulates automotive repair dealers as well as Smog Check stations, repair technicians, and inspectors, to issue a license to a federally recognized tribe. BPC Section 9880.1(i) defines "person" as "a firm, partnership, association, limited liability company, or corporation." The omission of federally recognized tribes creates a barrier to licensure for federally recognized tribes.

Household Movers. Among other prerequisites, applicants for a household movers permit must meet specified residency requirements, and pass an examination as directed by the BHGS. Prior to 2018, the household moving industry in California was regulated by the Public Utilities Commission (PUC). PUC code provided certain exemptions for those movers who were solely performing interstate moves, including waiving the examination requirement, and exempting them from residency requirements so long as the applicant provided an agent of service. On July 1, 2018, regulatory authority transferred to the BHGS, but these statutory exemptions for interstate movers did not carry over. As a result, it has been challenging in recent years for state regulators to reasonably administer interstate moves, and the technical clean-up in this bill has been a long-standing request from BHGS staff to better regulate interstate household movers.

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

According to the Assembly Committee on Appropriations, RCB anticipates minor and absorbable costs to draft and implement the regulatory provisions for an LVN to perform respiratory care services; BBC anticipates minor workload to update the application and examination fees to reflect actual cost, resulting in minor and absorbable costs; SPCB anticipates cost savings of approximately $316,000 in future years; Board of Pharmacy anticipates minor and absorbable costs and; the Department of Consumer Affairs (DCA), Office of Information Services states it will need to add a new application question for the BRN, update a fee code for the

BBC, and add enforcement codes for the Board of Pharmacy, resulting in an absorbable fiscal impact of $3,000.

SUPPORT: (Verified 8/30/24)

Associated Bodywork and Massage Professionals
Association of California Healthcare Districts
Bay Area Cancer Connections
Board of Barbering and Cosmetology
California Access Coalition
California Alliance of Child and Family Services
California Association for Nurse Practitioners
California Association of Alcohol and Drug Program Executives, INC.
California Association of Medical Product Suppliers
California Community Pharmacy Coalition
California Dental Hygienists' Association
California Health Collaborative
California Hospital Association
California Moving and Storage Association
California Nurses Association
California Dental Hygienists Association
Center for Inherited Blood Disorders
Chronic Disease Coalition
Close the Provider Gap
Dental Hygiene Board of California
Elderhelp
Leading Age California
Little Lobbyists
Liver Coalition of San Diego
Madera Community Hospital
Mental Health America of California
Michelle's Place Cancer Resource Center
Patient Advocates United in San Diego County
Pediatric Day Health Care Coalition
Respiratory Care Board of California
SEIU California State Council
Senior Care Clinic Medical House Calls
Shingle Springs Band of Miwok Indians

OPPOSITION: (Verified 8/30/24)

California Medical Association
Osteopathic Medical Board of California
Osteopathic Physicians and Surgeons of California

ARGUMENTS IN SUPPORT: Supporters write that AB 890 is mired with implementation barriers that delay the application process for NPs who are qualified to work without physician supervision. As a result, the state is underutilizing a valuable group of health professionals that could help address the significant shortage of primary care providers, particularly in rural areas of the state. Supporters note that NPs are critical to addressing access to care shortages – not only do they accept greater numbers of uninsured, Medi-Cal, and Medicare patients compared to physicians, they are more likely to work in rural and underserved communities. Supporters believe that provisions in the bill to expand the settings in which LVN can perform respiratory care services and provide flexibility that ensures patients can receive respiratory care services in their own homes and other community settings will allow California to meet the expanding demand for specialization in emergency departments, intensive care units, and other acute care settings. Supporters appreciate additional information being provided about animal patient medication and supporters believe changes to allow federally recognized tribes to become licensed are important.

ARGUMENTS IN OPPOSITION: The Osteopathic Medical Board of California and Osteopathic Physicians and Surgeons of California are concerned that foreign-trained osteopaths will use the title and offer services without being regulated and are concerned about these individuals who do not have a path to licensure in California or the United States using any terms associated with a licensed D.O.

The California Medical Association states that this bill eliminates a requirement that a NP complete a variation of a three-year training requirement in one of six different specialty categories.

Click here to enter text.

Prepared by: Sarah Mason / B., P. & E.D. / 916-651-4104
8/30/24 17:27:13

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

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UNFINISHED BUSINESS

Bill No: SB 1456
Author: Ashby (D)
Amended: 6/19/24
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 12-0, 4/22/24
AYES: Ashby, Nguyen, Alvarado-Gil, Archuleta, Becker, Dodd, Eggman, Glazer, Niello, Roth, Smallwood-Cuevas, Wilk
NO VOTE RECORDED: Menjivar

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/16/24
AYES: Caballero, Jones, Ashby, Becker, Bradford, Seyarto, Wahab

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

ASSEMBLY FLOOR: 77-0, 8/26/24 - See last page for vote

SUBJECT: State Athletic Commission Act

SOURCE: Author

DIGEST: The sunset bill for the California State Athletic Commission (Commission or CSAC), this bill extends CSAC operations by four years to January 1, 2029, authorizes the Commission to establish a process for approving competitors who test positive for hepatitis C, increases the minimum purse to $200 and authorizes the commission to increase the amount by regulation, requires an onsite ambulance to transport a competitor to the hospital if the ringside physician orders it, and increases the boxing pension plan ticket assessment.

Assembly amendments add the sunset date, add authority for the Commission to establish a process for approving competitors who test positive for hepatitis C, increase the minimum purse to $200, require an onsite ambulance to transport a competitor to the hospital if the ringside physician orders it, and increase the boxing pension plan ticket assessment to conform to the assessment for the mixed martial arts retirement benefit fund.

ANALYSIS:

Existing law:

1) Regulates and licenses combat sports under the Boxing Act, or State Athletic Commission Act, administered by the Commission (Business and Professions Code (BPC) §§ 18600-18888.12)

2) Establishes the Commission until January 1, 2025. (BPC § 18602)

This bill:

1) Extends the operation of the Commission and its authority to hire an executive officer and specified inspectors by four years to January 1, 2029.

2) Specifies that the Commission's Advisory Committee on Medical and Safety Standards must include at least one licensed physician and surgeon certified in neurology by a specialty board that is a member board of the American Board of Medical Specialties.

3) Requires the Commission to establish, by regulation, a review and approval process for applicants or licensees who test positive for hepatitis C to compete.

4) Specifies that a licensee is entitled to a minimum purse of $200 per round and authorizes the commission to increase the minimum amount in regulation.

5) Requires the assigned onsite ambulance to transport a licensee to a trauma center without delay if a ringside physician orders immediate medical care.

6) Specifies that the method of financing the boxing pension plan shall include an assessment in the amount of $1 on each ticket sold for a professional boxing contest held in this state, up to a maximum contribution of $10,000 dollars.

7) Makes technical and conforming changes.

Background

In March 2024, the Senate Business, Professions and Economic Development Committee and the Assembly Business and Professions Committee (Committees) began their comprehensive sunset review oversight of ten regulatory entities including the Commission. The Committees conducted two oversight hearings. This bill and the accompanying sunset bills are intended to implement legislative changes as recommended by staff of the Committees, and which are reflected in the Background Papers prepared by Committee staff for each agency and program reviewed this year. The bill will be amended to reflect necessary statutory updates and the continuation of the Commission.

The Commission is responsible for protecting the health and safety of its licensees: boxers, kickboxers, and other martial arts athletes. Concerned with athlete injuries and death, the public established the Commission by initiative in 1924. The Commission is responsible for implementation and enforcement of the Federal Muhammad Ali Boxing Reform Act and the California Boxing Act or State Athletic Commission Act. It provides direction, management, and control for professional and amateur boxing, professional and amateur kickboxing, and all forms and combinations of full contact martial arts contests, including mixed martial arts (MMA) and matches or exhibitions conducted, held or given in California. The Commission establishes requirements for licensure, issues and renews licenses, approves and regulates events, assigns ringside officials, investigates complaints received, and enforces applicable laws by issuing fines and suspending or revoking licenses. In 2023, the Commission supervised 150 events.

As a special fund entity, the Commission receives no General Fund support, relying solely on fees set in statute and collected from regulatory and license fees. For each event held in California that the Commission regulates, the Commission collects a "gate fee" from the event promoter, which is a 5% fee on gross ticket sales for that event, not to exceed $200,000. The Commission also collects a "TV fee" from the event promoter if the event is broadcast on television, which is a 5% fee on the revenue a promoter collects from broadcasting rights, not to exceed $35,000.

The Commission licenses a number of individuals related to the participation in, oversight for, and management of events in California. The Commission does not require any formal education requirements for licensure of fighters, promoters, managers, seconds, matchmakers, referees, judges and timekeepers. However, licensees must possess a minimum level of skill to enable them to safely compete against one another and demonstrate their ability to perform. Licensees who do not

fall into the combatant category such as referees, judges, timekeepers and ringside physicians (who are approved by the Commission) must have adequate knowledge of laws and rules so as not to jeopardize the health and safety of athletes. Many of the Commission's licensees must also pass competency exams provided by the Commission unless they are licensed in other jurisdictions. Fighters must also pass medical examinations that determine whether their health or safety may be compromised by licensure and participation in an event.

FISCAL EFFECT: Appropriation: Yes Fiscal Com.: Yes Local: Yes

According to the Assembly Appropriations Committee, the bill will result in ongoing special fund costs of $2.22 million and 10.7 positions to support the continued operation of the Commission's licensing and enforcement activities beyond the current sunset of the Commission on January 1, 2025. The 2024 budget act includes these funds and position authority.

SUPPORT: (Verified 8/27/24)

California Orthopaedic Association

OPPOSITION: (Verified 8/27/24)

None received

ARGUMENTS IN SUPPORT: The California Orthopaedic Association writes that "Since these sports do have increased risk of head and neurological damage, we think having a designated slot for a neurologist is appropriate and support the legislation."

ASSEMBLY FLOOR: 77-0, 8/26/24
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Chen, Connolly, Megan Dahle, Davies, Dixon, Essayli, Flora, Mike Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, Mathis, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, 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: Cervantes, Ortega

Prepared by: Sarah Mason / B., P. & E.D. /
8/30/24 17:27:14

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

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UNFINISHED BUSINESS

Bill No: SCA 1
Author: Newman (D), et al.
Amended: 8/19/24
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

SENATE FLOOR: 31-7, 2/1/24
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Hurtado, Laird, Limón, McGuire, Menjivar, Min, Newman, Padilla, Roth, Rubio, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk
NOES: Dahle, Grove, Jones, Nguyen, Niello, Ochoa Bogh, Seyarto
NO VOTE RECORDED: Gonzalez, Portantino

ASSEMBLY FLOOR: 55-15, 8/30/24
(ROLL CALL NOT AVAILABLE)

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 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. 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.

Assembly Amendments added a requirement that the measure will appear on the ballot at the November 3, 2026, statewide general election if adopted by the Legislature.

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) Requires this constitutional amendment to appear on the ballot at the November 3, 2026, statewide general election.

5) Makes corresponding formatting changes.

Background

Informational Recall Hearings. During the 2021-22 legislative session, the Assembly Elections Committee and the Senate Elections & 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 restriction 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.

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, 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. In its 2022 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

Author's Statement. 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 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.

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

According to the Assembly Appropriations Committee:

1) One-time costs of approximately $203,000 to the SOS for system modifications to California's centralized voter registration database (VoteCal) to reflect revised recall procedures (General Fund (GF)). VoteCal updates include design and coding changes to add a new contest type with unique processing and reporting requirements.

2) One-time costs of approximately $738,000 to $984,000 to the SOS for printing and mailing expenses associated with placing the measure on the ballot at the

next statewide election (GF). Based on the average cost per page for prior elections, the SOS estimates such costs to be approximately $123,000 per page for six to eight pages in the state voter information guide, although actual costs related to this measure will depend on the length of the title and summary, analysis by the Legislative Analyst's Office, proponent and opponent arguments, and text of the proposal.

3) Costs of an unknown, but likely minor and absorbable, amount to the SOS and Controller to assume recall duties from another office.

According to the Legislative Analyst's Office, the GF faces a structural deficit in the tens of billions of dollars over the next several fiscal years.

SUPPORT: (Verified 8/26/224)

Secretary of State Shirley N. Weber, Ph.D. (co-source)
California Common Cause (co-source)
League of Women Voters of California (cosource)
Lieutenant Governor Eleni Kounalakis
Culver City Democratic Club
Indivisible CA: StateStrong
Santa Monica Democratic Club

OPPOSITION: (Verified 8/26/24)

Election Integrity Project California, Inc.
12 Individuals

Prepared by: Scott Matsumoto / E. & C.A. / (916) 651-4106
8/30/24 17:27:14

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

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UNFINISHED BUSINESS

Bill No: SJR 16
Author: Padilla (D), et al.
Amended: 8/12/24
Vote: 21

SENATE NATURAL RES. & WATER COMMITTEE: 9-0, 6/11/24
AYES: Min, Seyarto, Allen, Eggman, Hurtado, Laird, Limón, Padilla, Stern
NO VOTE RECORDED: Dahle, Grove

SENATE FLOOR: 34-0, 6/20/24
AYES: Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dodd, 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: Allen, Alvarado-Gil, Dahle, Durazo, Grove, Jones

ASSEMBLY FLOOR: 74-0, 8/26/24 - See last page for vote

SUBJECT: The Chuckwalla, Joshua Tree, and Kw'tsán National Monuments.

SOURCE: Author

DIGEST: This resolution urges the U.S. President to use the Antiquities Act of 1906 to establish the Chuckwalla National Monument, the Kw'tsán National Monument, and a National Park Service-managed Joshua Tree National Monument adjacent to Joshua Tree National Park.

Assembly Amendments added the Kw'tsán National Monument to the resolution.

ANALYSIS:

Existing federal law:

1) Declares that it is a national policy to preserve for public use historic sites, buildings, and objects of national significance for the inspiration and benefit of the people of the United States. (54 USC §320101.)

2) Authorizes the President to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated on land owned or controlled by the Federal Government to be national monuments. (54 USC §320301.)

Existing state law:

1) Establishes a goal of the state to conserve at least 30% of California's lands and coastal waters by 2030. (Public Resources Code (PRC) §71450.)

2) Directs the California Natural Resources Agency, in implementing the 10 pathways and specific near-term priority actions described in the Pathways to 30x30 Report to achieve the 30x30 goal, to prioritize certain actions, including supporting tribal engagement and leadership in implementing the 30x30 goal. (PRC §71451.)

This resolution urges the U.S. President to use the Antiquities Act of 1906 to establish the Chuckwalla National Monument, the Kw'tsán National Monument, and an NPS-managed Joshua Tree National Monument adjacent to Joshua Tree National Park.

Background

Federal Antiquities Act. This act, which passed in 1906, seeks to preserve America's archeological places and historical sites, including the information they contain, on federal lands. Among other things, this act authorizes the President to establish national monuments. Specifically, the act gives the President the authority to "declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated on land owned or controlled by the Federal Government to be national monuments" (Title 54 U.S. Codes (54 USC) §320301(a)). National monuments may be administered by the National Park Service (NPS), the U.S. Forest Service (USFS), the U.S. Fish and Wildlife Service (USFWS), or the Bureau of Land Management (BLM). Since 1906, U.S. presidents have used their authority under the Antiquities Act to set aside land almost 300 times.

In California, there are at least 17 national monuments, including Berryessa Snow Mountain, Cabrillo, California Coastal, Carrizo Plain, Castle Mountains, César E. Chávez, Devils Postpile, Fort Ord, Giant Sequoia, Lava Beds, Mojave Trails, Muir Woods, Saint Francis Dam Disaster, Sand to Snow, San Gabriel Mountains, Santa Rosa and San Jacinto Mountains, and Tule Lake.

Comments

Chuckwalla National Monument proposal. The proposed Chuckwalla National Monument includes over 620,000 acres of public lands. These lands are managed primarily by BLM. It is located south of Joshua Tree National Park, north of the Chocolate Mountains, and reaches from the Coachella Valley region in the west to near the Colorado River in the East. The area provides opportunities for outdoor recreation (e.g., hiking, rock climbing, picnicking, stargazing, and some off-highway vehicle recreation) and hosts a unique, biodiverse ecosystem, provides habitat for numerous species (e.g., Chuckwalla lizard, endangered desert tortoise, Sonoran pronghorn, native plans, and migratory birds). Currently, there are "islands" of protected public lands in this region, including Joshua Tree National Park and wilderness areas. The proposed national monument and Joshua Tree National Park expansion would connect these "islands" and safeguard core habitat areas and linkages. This is critical for the survival of native species in the face of climate change-related habitat loss, warming temperatures, and increased drought.

The lands within the proposed national monument include the homelands of the Iviatim, Nüwü, Pipa Aha Macav, Kwatsáan, and Maara'yam peoples, also known as the Cahuilla, Chemehuevi, Mojave (Colorado Indian Tribes), Quechan, and Serrano nations. Designating the Chuckwalla National Monument would help to protect important spiritual and cultural values tied to the land such as multi-use trail systems established by indigenous peoples, sacred sites and objects, traditional cultural places, geoglyphs, petroglyphs, and pictographs.

Kw'tsán National Monument proposal. The Fort Yuma Quechan Indian Tribe (pronounced Kwatsáan) and supporters are calling for the permanent protection of the Kw'tsán cultural landscape as a national monument. This proposal to protect the tribe's homelands encompasses more than 390,000 acres of lands managed by the BLM in Imperial County along the border with Mexico and Arizona.

The proposed Kw'ts'án National Monument contains cultural, ecological, recreational, scenic, and historic values. The area is part of a greater cultural landscape, connecting together Avikwalal, Palo Verde Peak, the proposed Chuckwalla National Monument, and Spirit Mountain in Avi Kwa Ame National

Monument. The boundary exhibits a portion of the Fort Yuma Quechan Indian Tribe's ancestral homelands and incorporates the Indian Pass Area of Critical Environmental Concern (ACEC), Pilot Knob (Avikwalal) ACEC, Singer Geoglyphs ACEC, Buzzards Peak, and Picacho Peak Wilderness areas.

The Colorado River runs along the eastern side of the proposed monument, and the water brings several species to the region including roadrunners, Woodhouse toads, desert tortoises, sidewinders, Yuma kingsnakes, black-tailed jackrabbits, kit foxes, roundtail ground squirrels, badgers, and chuckwallas. Plants in the area include the desert agave, saguaro, creosote, mesquite, desert milkweed, algodones dunes sunflower, arroweed, sand food, desert devil's claw, chocolate mountains coldenia, foxtail cactus, munz's and wiggins cholla, and the yellow palo verde.

Joshua Tree National Park addition. In 2016, the NPS completed an assessment of the effects of adding approximately 20,000 acres of lands in the Eagle Mountain area to Joshua Tree National Park. Located in Riverside County near the town of Desert Center, the area considered in the assessment is bounded to the south, west, and north by Joshua Tree National Park. The eastern border is defined by the Colorado River Aqueduct. Most of the area is federally owned and managed by the BLM. However, the area also contains lands in state, private, and Metropolitan Water District of Southern California ownership. In particular, there are 2,000 acres of privately owned lands, and 335.7 acres of state school lands[1] managed by the State Lands Commission (SLC).

The Department of the Interior has already initiated the process to transfer lands from the BLM to the NPS. The non-federally owned lands could become a part of the park if the property owners chose to sell, exchange, or donate the lands to the NPS. Eagle Crest Energy Company, which holds property interests in the area, has indicated that it would consider donating lands not needed for a pumped storage hydroelectric project to the NPS in the future. Regarding the school lands, SLC has indicated it would consider a land exchange when and if the surrounding private lands and mineral interests are transferred to the NPS for management. For lands that remain in private ownership, the NPS would seek to work with private landowners on mitigation strategies to avoid or minimize the impacts of any adjacent industrial uses. It is worth noting that if the park boundary were adjusted, all valid existing rights would be preserved.

[1] After California achieved statehood, the federal government granted approximately 5.5 million acres of land to California to support of schools. Proceeds from the sale of these lands helped to pay for school construction. SLC retains jurisdiction over around 450,000 acres of remaining school lands and manages them to generate revenue for CalSTRS.

The 2016 assessment found that the addition under consideration could allow for greater protection of existing habitat, restoration opportunities, landscape connectivity, and new access opportunities. Recent studies have documented the particular importance of the Eagle Mountain area for bighorn sheep and desert tortoise populations. The area also contains prehistoric and historic resources that expand on the national park's cultural themes, and contains areas important for maintaining the park wilderness values.

Joshua Tree National Park or National Monument? This resolution urges the President to use the federal Antiquities Act to establish a National Park Service-managed Joshua Tree National Monument adjacent to shua Tree National Park. It is worth noting that federal efforts conceive of the land under consideration as an addition to Joshua Tree National Park, rather than as the creation of a new monument next to the park. The author is aware of this distinction, but has specifically requested the language in this resolution because the President can move faster to establish a new monument via proclamation than Congress can move to expand the park via legislation. The idea is that the President could act to quickly protect the area and then, later in the future, Congress could complete the process by officially incorporating the land into the park.

Connection to 30x30 initiative. According to CNRA, these three National Monuments are estimated to add a little over one million acres to the State's 30x30 goal. The proposed Chuckwalla National Monument would add an estimated 400,000 acres, the Joshua Tree expansion would add an estimated 17,000 acres, and the proposed Kw'tsán National Monument would add an estimated 390,000 acres of new lands to 30x30. These numbers may change upon final designation.

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

SUPPORT: (Verified 8/26/24)

Anza-Borrego Foundation
Audubon California
Bolsa Chica Land Trust
Cahuilla Band of Indians
California Coastal Protection Network
California Environmental Voters
California Institute for Biodiversity
California Native Plant Society
California Wilderness Coalition

Central Valley Partnership
City of Palm Desert
Consejo de Federaciones Mexicanas
Defenders of Wildlife
Endangered Habitats League
Environment California
Environmental Center of San Diego
Environmental Protection Information Center
Forests Forever
Friends of Harbors, Beaches and Parks
Friends of The Desert Mountains
ForEverGreen Forestry
Great Old Broads for Wilderness, Crest to Coast Broadband
Herpetological Conservation International
Mojave Desert Land Trust
Morongo Basin Conservation Association
Mount Shasta Bioregional Ecology Center
Nature for All
Outdoor Outreach
Pacific Forest Trust
Planning and Conservation League
Resource Renewal Institute
Santa Clara Valley Audubon Society
Santa Cruz Climate Action Network
Sierra Business Council
Sierra Club California

OPPOSITION: (Verified 8/26/24)

None received

ARGUMENTS IN SUPPORT: According to the author, "As climate change continues to disrupt and forever alter our most fragile ecosystems, it is imperative that we take action to preserve sites of cultural importance. The creation of the Chuckwalla and Kw'tsán National Monuments will help us to better protect lands of ecological and historical significance California and to the sovereign nations of the region."

ASSEMBLY FLOOR: 74-0, 8/26/24
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Chen, Connolly, Megan Dahle, Davies, Dixon, Flora, Mike Fong,

Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, Mathis, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Pacheco, Papan, Jim Patterson, 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: Cervantes, Essayli, Ortega, Joe Patterson, Sanchez

Prepared by: Catherine Baxter / N.R. & W. / (916) 651-4116
8/27/24 12:12:29

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

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UNFINISHED BUSINESS

Bill No: SJR 17
Author: Allen (D), et al.
Amended: 8/12/24
Vote: 21

SENATE NATURAL RES. & WATER COMMITTEE: 10-0, 6/17/24
AYES: Min, Seyarto, Allen, Eggman, Grove, Hurtado, Laird, Limón, Padilla, Stern
NO VOTE RECORDED: Dahle

SENATE FLOOR: 37-0, 6/24/24
AYES: Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hurtado, Laird, Limón, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk
NO VOTE RECORDED: Allen, Dahle, Jones

ASSEMBLY FLOOR: 74-0, 8/26/24 - See last page for vote

SUBJECT: The Sáttítla National Monument

SOURCE: Pit River Tribe

DIGEST: This resolution urges the President of the United States to use the Antiquities Act to establish the Sáttítla National Monument.

Assembly Amendments removed language urging the President to use the Antiquities Act to establish the Kw'tsán National Monument.

ANALYSIS:

Existing federal law:

1) Declares that it is a national policy to preserve for public use historic sites, buildings, and objects of national significance for the inspiration and benefit of the people of the United States. (*54 USC §320101.)*

2) Authorizes the President to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated on land owned or controlled by the Federal Government to be national monuments. *54 USC §320301*.

Existing state law:

1) Establishes a goal of the state to conserve at least 30% of California's lands and coastal waters by 2030. *Public Resources Code (PRC) §71450.*

2) Directs the California Natural Resources Agency (CNRA), in implementing the 10 pathways and specific near-term priority actions described in the Pathways to 30x30 Report to achieve the 30x30 goal, to prioritize certain actions, including supporting tribal engagement and leadership in implementing the 30x30 goal. *PRC §71451.*

This resolution would urge the President to use the Antiquities Act to establish the Sáttítla National Monument.

Background

Federal Antiquities Act. This act, which passed in 1906, seeks to preserve America's archeological places and historical sites, including the information they contain, on federal lands. Among other things, this act authorizes the President to establish national monuments. Specifically, the act gives the President the authority to "declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated on land owned or controlled by the Federal Government to be national monuments" (Title 54 U.S. Codes (54 USC) §320301(a)). National monuments may be administered by the National Park Service (NPS), the U.S. Forest Service (USFS), the U.S. Fish and Wildlife Service (USFWS), or the Bureau of Land Management (BLM). Since 1906, U.S. presidents have used their authority under the Antiquities Act to set aside land almost 300 times.

In California, there are at least 17 national monuments, including Berryessa Snow Mountain, Cabrillo, California Coastal, Carrizo Plain, Castle Mountains, César E. Chávez, Devils Postpile, Fort Ord, Giant Sequoia, Lava Beds, Mojave Trails, Muir Woods, Saint Francis Dam Disaster, Sand to Snow, San Gabriel Mountains, Santa Rosa and San Jacinto Mountains, and Tule Lake.

Comments

Sáttítla National Monument proposal. The Pit River Tribe and supporters are calling on President Biden to establish a national monument in Northern California to protect approximately 200,000 acres of land managed by the USFS in an area commonly known as the Medicine Lake Highlands, but designated as Sáttítla by Native Americans in the area.

Located 30 miles northeast of Mount Shasta and nestled within the Shasta-Trinity, Klamath, and Modoc National Forests of northeastern California, Sáttítla is a culturally significant, geologically unique, water rich, and life sustaining region. The area's mature forests help to sequester carbon and provide habitat for wildlife. It is home to bald eagles, osprey, goshawks, deer, elk, black bear, imperiled northern spotted owls, Sierra martens, Pacific fishers, rare bats, and sensitive plants. For thousands of years the forested lands and waters have been sacred to numerous tribes including the Pit River, Modoc, Shasta, Karuk, and Wintu. Sáttítla is a spiritual center for the Pit River and Modoc Tribes, who continue to use the area for religious activities, ceremonies, and gatherings.

Sáttítla is located in a headwater area of the state, which helps to provide water to the state's residents, agriculture, and wildlife. The Medicine Lake Volcano is an enormous hydrological recharge and storage area for California's water supply. It captures and discharges over 1.2 million acre-feet of snowmelt annually, emerging as the Fall River Springs, the largest spring system in the state, which sustains a trout fishery before it flows into Shasta Lake Reservoir and the Sacramento River, serving millions of residents downstream. The volcanically formed aquifers below the surface capture snow melt and are estimated to store 20 to 40 million acre-feet of water, which is on the same order of magnitude as California's 200 largest surface reservoirs. A 2014 hydrogeological study pointed out the need to protect this groundwater resource for farms, cities, and people.[1]

[1] See Dr. Robert R. Curry. California's Water Future: Hydrological Report on the Risks to the Medicine Lake Volcano Aquifers Associated with Geothermal Development, March 2014. **https://mountshastaecology.org/wp-content/uploads/2014/12/CurryHydroReport.pdf**

Connection to 30x30 initiative. According to CNRA, the proposed Sáttítla National Monument would add roughly 210,000 acres to the state's 30x30 target. This number may change upon final designation.

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

SUPPORT: (Verified 8/26/24)

Pit River Tribe (source)
Allensworth Progressive Association
CactusToClouds Institute
California Botanic Garden
California Environmental Voters
California Trout
Californians for Western Wilderness
California Wilderness Coalition
Central Valley Partnership
Coalition to Protect America's National Parks
Conservation Lands Foundation
Council of Mexican Federations in North America
Defenders of Wildlife
Endangered Habitats League
Environment California
Environmental Center of San Diego
Environmental Protection Information Center
Forests Forever
ForEverGreen Forestry
Friends of Amargosa Basin
Friends of Plumas Wilderness
Friends of the Inyo
Great Old Broads for Wilderness
Latino Outdoors
LEGACY – The Landscape Connection
Mount Shasta Bioregional Ecology Center
Native American Lands Conservancy
Resource Renewal Institute
Robert Redford Conservancy at Pitzer College
Santa Clara Valley Audubon Society
Save California Salmon
Sierra Business Council

Sierra Club California
Sierra Nevada Alliance
The Mountain Pact
The Wilderness Society
Trout Unlimited
Tuleyome
Vet Voice Foundation
Western Watersheds Project

OPPOSITION: (Verified 8/26/24)

None received

ARGUMENTS IN SUPPORT: According to the author, "In order to reach our state's 30x30 goals and ensure that future generations have access to California's remarkable landscape, we must permanently protect the irreplaceable resource of our natural lands. The establishment of the Sáttítla National Monument will safeguard California's endangered species and biodiversity, ecological sustainability, and rich cultural history. As national monuments, these lands will benefit from the same tribal stewardship that kept them pristine over the centuries."

ASSEMBLY FLOOR: 74-0, 8/26/24
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Chen, Connolly, Megan Dahle, Davies, Dixon, Flora, Mike Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, Mathis, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Pacheco, Papan, Jim Patterson, 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: Cervantes, Essayli, Ortega, Joe Patterson, Sanchez

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Prepared by: Catherine Baxter / N.R. & W. / (916) 651-4116
8/26/24 21:34:26

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

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THIRD READING

Bill No: AB 98
Author: Juan Carrillo (D) and Reyes (D)
Amended: 8/28/24 in Senate
Vote: 21

SENATE LOCAL GOVERNMENT COMMITTEE: 4-2, 8/29/24
AYES: Durazo, Skinner, Wahab, Wiener
NOES: Seyarto, Dahle
NO VOTE RECORDED: Glazer

SENATE APPROPRIATIONS COMMITTEE: 5-1, 8/30/24
AYES: Caballero, Ashby, Becker, Bradford, Wahab
NOES: Seyarto
NO VOTE RECORDED: Jones

SUBJECT: Planning and zoning: logistics use: truck routes

SOURCE: Author

DIGEST: This bill prohibits, commencing January 1, 2026, cities and counties from approving new or expanded logistics uses unless they meet specified standards, requires cities and counties to update their circulation elements to include truck routes, and imposes study requirements on the South Coast Air Quality Management District (AQMD).

Senate Floor Amendments of 8/28/24 delete the contents of the bill and insert the current provisions pertaining to logistics uses.

ANALYSIS:

Existing law:

1) Allows a city or a county to "make and enforce within its limits, all local, police, sanitary and other ordinances and regulations not in conflict with general laws." It is from this fundamental power (commonly called the police

power) that cities and counties derive their authority to regulate behavior to preserve the health, safety, and welfare of the public, including land use authority.

2) Requires, pursuant to Planning and Zoning Law, every city and county to adopt a general plan that sets out planned uses for all of the area covered by the plan, and requires the general plan to include seven mandatory elements, including a circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, any military airports and ports, and other local public utilities and facilities.

3) Requires, pursuant to the California Environmental Quality Act (CEQA) lead agencies with the principal responsibility for carrying out or approving a proposed project to prepare a negative declaration, mitigated negative declaration, or an environmental impact report (EIR) for this action, unless the project is exempt from CEQA.

This bill establishes standards that new or expanded logistics uses must meet beginning January 1, 2026, requires cities and counties to update their circulation elements to include truck routes, and imposes study requirements on the South Coast AQMD. Specifically, this bill:

1) Prohibits, commencing January 1, 2026, a local agency from approving development of a logistics use that does not meet or exceed specified standards, described below.

2) Defines the following terms:

   a) "Logistics use" to mean a building in which cargo, goods, or products are moved or stored for later distribution to business or retail customers, or both, that does not predominantly serve retail customers for onsite purchases, and heavy-duty trucks are primarily involved in the movement of the cargo, goods, or products, with specified exceptions.

   b) "Sensitive receptors" are defined to mean a residence, school, daycare facility, recreational facilities primarily used by children, nursing homes and similar facilities, and hospitals.

   c) "Warehouse concentration region" (WCR) to include the Counties of San Bernardino and the Cities of Chino, Colton, Fontana, Jurupa Valley, Moreno Valley, Ontario, Perris, Rancho Cucamonga, Redlands, Rialto, Riverside, and San Bernardino.

3) Establishes siting criteria:

   a) Requires any new logistics use development must be sited on roadways that meet the following classifications:

      i) Arterial roads;

      ii) Collector roads;

      iii) Major thoroughfares; or

      iv) Local roads that predominantly serve commercial uses, which mean 50 percent of the properties fronting the road within 1,000 feet are designed for commercial or industrial use according to the local zoning ordinance.

   b) However, a waiver may be granted where siting on these roadways is impractical due to unique geographic, economic, or infrastructure-related reasons. The waiver shall be approved by the city, county, or city and county, provided that the applicant demonstrates all of the following:

      i) There is no feasible alternative site that exists within the designated roadways;

      ii) A traffic analysis has been completed and submitted to the local approving authority;

      iii) The site is an existing industrial zone; and

      iv) The proposed site will incorporate mitigations to minimize traffic and environmental impacts on residential areas to the greatest extent feasible.

4) Establishes requirements for buffers:

   a) Any new logistics use facility within 900 feet of a sensitive receptor must include a buffer that fully screens all adjacent sensitive receptors and include a solid decorative wall, landscaped berm and wall, or landscaped berm 10 or more feet in height, drought tolerant natural ground landscaping with proper irrigation, and specified types of trees (excluding palm trees) planted in two rows along the length of the property line with specified spacing. The buffer must meet the following widths, measured from the property line of all adjacent sensitive receptors:

      i) 50 feet if the logistics use is located in an industrial area; or

ii) 100 feet if the logistics use is located in a non-industrial area.

5) Requires new or expanded logistics uses to meet certain requirements for setbacks from sensitive receptors, design and construction standards, and electrification requirements, as follows:

a) Requires new "Tier 1 21st Century warehouse standards" (Tier 1 standards) and a less stringent set of "21st century warehouse standards" (base standards), as specified.

b) Requires, for new or expanded logistics uses that have a loading bay within 900 feet of a sensitive receptor and are located on industrial land (whether in the WCR or not):

i) A logistics use that includes 250,000 or more square feet must have loading bays set back at least 300 feet from the property line of the nearest sensitive receptor and meet Tier 1 standards.

ii) Smaller logistics uses have no setback requirement and must meet a set of standards that incorporate some, but not all of the requirements in the base standards, specifically no requirement for zero emissions forklifts, and the conduit at loading bays must be equal to one truck per every loading bay serving cold storage.

c) For new or expanded logistics uses that have a loading bay within 900 feet of a sensitive receptor and are located on non-industrial land, as specified, loading bays must be set back 500 feet from the property line of the nearest sensitive receptor. If the use is 250,000 square feet or more, it must meet the Tier 1 standards, or the base standards if smaller than that.

d) If the use is located in the WCR, all new or expanded logistics uses on nonindustrial land, regardless of whether there are sensitive receptors within 900 feet, must have a 500-foot setback. If the use is 250,000 square feet or more, the Tier 1 standards apply; if below that, then the base standards apply. Logistics uses on industrial land in the WCR are treated the same as uses on industrial land in the rest of the state.

e) Requires all logistics uses subject to any of the above requirements must also meet the following design standards:

i) Orient truck loading bays on the opposite side of the logistics use development away from sensitive receptors, to the extent feasible;

ii) Have a separate entrance for heavy-duty trucks accessible via a truck route, arterial road, major thoroughfare, or a local road that predominantly serves commercial oriented uses;

iii) Locate truck entry, exit, and internal circulation away from sensitive receptors. Heavy-duty diesel truck drive aisles shall be prohibited from being used on sides of the building that are directly adjacent to a sensitive receptor property line.

iv) All new or expanded logistics uses, regardless of size or location, must position entry gates into the loading truck court after a minimum of 40 feet of total available stacking depth inside the property line. This stacking depth must be increased by 70 feet for every 20 loading bays beyond 50 loading bays to the extent feasible.

6) Requires two new units of affordable housing for each unit of housing demolished to build a logistics use, as specified, and if residential dwellings are affected through purchase, the developer must provide any displaced tenant with an amount equivalent to 12 months' rent at the current rate.

7) Requires submission of a truck routing plan, as follows:

a) Prior to the issuance of a certificate of occupancy, a facility operator must establish and submit for approval to the planning director or equivalent position for the city or county a truck routing plan, as specified, to and from the state highway system based on the latest truck route map of the city or county.

8) Exempts from the above requirements any logistics projects that:

a) Are subject to a commenced local entitlement process prior to September 30, 2024;

b) Receive an approval by a local agency prior to the effective date of the bill; or

c) Are a mixed use development that may create sensitive receptors on the site of the new logistics use development, and there are no existing sensitive receptors within 900 feet of the loading bay.

9) Exempts from the setback requirements (but not the other requirements of the bill) any of the following developments even if a new sensitive receptor is constructed, permitted, or established after the bill goes into effect:

a) Any logistics use development already in existence as of September 30, 2024;

b) Development of a property for a logistics use or a proposed expansion of a logistics use that is in the entitlement process as of September 30, 2024;

c) New logistics use developments that require rezoning of land, if the start of the entitlement process for the logistics use began before any sensitive receptor started its own entitlement process, unless the proposed sensitive receptor was an existing allowable use according to local zoning regulations;

d) A logistics use in the entitlement process if it wasn't already subject to the setback requirements because of the presence of a sensitive receptor.

10) Provides that the bill does not supersede mitigation measures required by CEQA, and does not affect the ability of a local government to deny a logistics use.

11) Requires changes to the circulation element of a general plan, as follows:

a) Requires cities and counties to update their circulation elements to include the following requirements regarding truck routes. Cities and counties in the WCZ must update their circulation elements by January 1, 2026; all remaining cities and counties have an additional two years, until January 1, 2028.

b) The update to the circulation element must do all of the following:

i) Identify and establish specific travel routes for the transport of goods, materials, or freight for storage, transfer, or redistribution to safely accommodate additional truck traffic and avoid residential areas and sensitive receptors; and

ii) Maximize the use of interstate or state divided highways as preferred routes for truck routes. The county or city must also maximize use of arterial roads, major thoroughfares, and predominantly commercially oriented local streets when state or interstate highways are not utilized.

c) Requires truck routes to comply with the following:

i) Major or minor collector streets and roads that predominantly serve commercially oriented uses must be used for truck routes only when strictly necessary to reach existing industrial zones;

ii) Trucks must be routed via transportation arteries that minimize exposure to sensitive receptors; and

iii) On and after January 1, 2028, all proposed development of a logistics use development must be accessible via arterial roads, major thoroughfares, or roads that predominantly serve commercially oriented uses. For purposes of the circulation element, local roads shall be considered to predominantly serve commercial uses if more than 50 percent of the properties fronting the road within 1,000 feet are designated for commercial or industrial use according to the local zoning ordinance.

12) Requires a county or city to:

a) Provide for posting of conspicuous signage to identify truck routes and additional signage for truck parking and appropriate idling facility locations;

b) Make truck routes publicly available in geographic information system (GIS) format and share GIS maps of the truck routes with warehouse operators, fleet operators, and truck drivers;

c) Include public participation as specified.

13) Allows the Attorney General to enforce the circulation element requirements and subjects a city or county that fails to comply to a penalty of up to $50,000 every six months if the required updates have not been made. Upon appropriation by the Legislature, any fines collected must be distributed by the Attorney General and returned to the local AQMD in which the fine was imposed and be used for the district's efforts to improve air quality.

14) Anti-idling signs indicating a three-minute heavy-duty truck engine idling restriction must be posted at logistics use developments along entrances to the site and at the truck loading bays. These signs must be installed at all heavy-duty truck exit driveways directing truck drivers to the truck route as indicated in the truck routing plan and in the state highway system.

15) Subject to an appropriation for this express purpose, requires South Coast AQMD, beginning on January 1, 2026, and until January 1, 2032, deploy

mobile air monitoring systems within the Counties of Riverside and San Bernardino to collect air pollution measurements in communities that are near operational logistics use developments.

16) Requires South Coast AQMD to use the data collected to conduct an air modeling analysis to evaluate the impact of air pollution on sensitive receptors from logistics use development operations in the Counties of Riverside and San Bernardino, including relative pollution concentrations from logistics use developments at varying distances from sensitive receptors.

17) Requires South Coast AQMD to submit its findings to the Legislature on or before January 1, 2033, and on or before January 1, 2028, it must submit an interim report. This report must be used to assess the effectiveness of setbacks on public health.

18) Requires South Coast AQMD to establish a process for receiving community input on how any penalties assessed and collected for violations of the Warehouse Indirect Source Rule are spent. The South Coast AQMD must ensure a wide range of community groups are included in the process and that groups represent the geographic areas where there are high numbers of warehouse facilities.

19) Defines additional terms and includes findings and declarations to support its purposes.

Background

Warehouses and other logistics uses. The proliferation of e-commerce and consumer expectations for rapid shipping contributed to a boom in warehouse development in California. The Environmental Justice Bureau at the California Attorney General's Office notes that in the Inland Empire alone, 150 million square feet of new industrial space was developed from 2009-2019, and that 21 of the largest 100 logistics leases signed in 2019 were located in the Inland Empire.

Warehouse impacts. Numerous studies have correlated the presence of warehouses with negative health effects on nearby communities, due primarily to the truck traffic associated with the warehouses. Under Attorney General Xavier Becerra, the Office of the Attorney General (OAG) adopted a guidance memo titled Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act. The memo notes: "among other pollutants, diesel trucks visiting warehouses emit nitrogen oxide (NOx)—a primary precursor to smog formation and a significant factor in the development of respiratory

problems like asthma, bronchitis, and lung irritation—and diesel particulate matter (a subset of fine particular matter that is smaller than 2.5 micrometers)—a contributor to cancer, heart disease, respiratory illnesses, and premature death. Trucks and on-site loading activities can also be loud, bringing disruptive noise levels during 24/7 operation that can cause hearing damage after prolonged exposure."

A staff report from the South Coast Air Quality Management District (South Coast AQMD) analyzed the impacts of warehouses at different distances and found that:

a) Communities within ½ mile of large warehouses had scored more poorly on measures of environmental health than the basin as a whole;

b) These communities have significantly higher proportions of Hispanic residents than the basin as a whole;

c) Risks posed from particulate matter are also higher for populations located within ½ mile of warehousing facilities; and

d) Measures of environmental health improve the further communities are from warehouses.

Warehouse mitigation measures. The OAG's memo identifies best practices for avoiding and mitigating impacts associated with warehouse development. The memo relies heavily on research prepared by the California Air Resources Board (CARB) in 2005. Among the recommendations proposed in the memo related to the siting and design of warehouses the memo notes that a best practice includes: "Per CARB guidance, siting warehouse facilities so that their property lines are at least 1,000 feet from the property lines of the nearest sensitive receptors." Sensitive receptors are areas that children, the elderly, and other vulnerable populations congregate, such as residences or schools. The underlying data the memo cites in support of this recommendation found an 80 percent drop off in the concentration of diesel particulate matter emissions from distribution centers, and associated cancer risk, at approximately 1,000 feet. CARB and South Coast AQMD analyses indicate that providing a separation of 1,000 feet substantially reduces diesel particulate matter concentrations and public exposure downwind of a distribution center.

The Attorney General also intervened in a recent warehouse development, reaching a settlement with the City of Fontana in April 2022 resolving allegations that the city violated CEQA by approving a 205,000 square foot warehouse project that borders a public high school and is located in a low-income neighborhood. As part

of the settlement, the warehouse developer must implement mitigation measures and the city adopted an ordinance that requires new warehouse developments of greater than 400,000 square feet to be powered by solar energy, use zero emission (ZE) equipment on site, and set loading docks back by at least 300 feet from sensitive receptors, such as residences or schools. The author wants to establish minimum mitigation measures for new logistics uses.

Comments

1) *Purpose of the bill.* According to the author, "For more than a decade, the Legislature has heard outcries from communities where local governments have prioritized economic development over the quality of life and health of their communities. AB 98 is the product of months of discussion and collaborations from environmental advocates, leaders in industry, labor, and dedicated public health advocates to raise the standards of warehouse development. This bill requires warehouse operators and developers to build a better product, operate responsibly, and be good neighbors to the communities they set up shop in. AB 98 also requires local agencies to make responsible decisions that promote economic development while maintaining or improving the quality of life for their constituencies. AB 98 provides protections for disadvantaged communities from bad actors while allowing leaders of industry to operate. This bill is a necessary compromise for communities and business entities alike."

2) *Getting the number right.* This bill establishes a set of standards at the state level that apply to new or expanded logistics uses across the state to protect nearby residents from the impacts of those uses. Among the most critical protections for residents are setbacks between the uses and homes, daycares, and other sites that have sensitive receptors. If sufficiently large, setbacks can reduce pollution and noise impacts, and reduce conflicts over truck traffic with other road users and pedestrians, by pushing logistics uses away from populated areas. This bill applies 300-foot setbacks from the loading bay in industrial areas, and 500-foot setbacks in non-industrial areas. These are relatively small setbacks compared to the OAG best practice that recommends 1,000-foot setbacks from property line to property line.

   Additionally, it is unclear how frequently the 500-foot setback will apply. This bill applies a 500-foot setback to warehouses proposed on land that isn't zoned industrial. This means that if a developer submits an application for a project that also includes a rezoning to industrial, they would have to meet that requirement. However, if the local government rezones independently of an application for a project, or rezones at the request of a developer, but the

developer doesn't propose a project until after the rezoning is complete, the 300-foot setbacks apply. The Legislature may wish to consider whether this bill's setback requirements are sufficiently protective.

3) *Unintended consequences.* When taken together, the requirements in this bill may reduce available sites for new or expanded logistics uses. A coalition of logistics developers and business entities argue that the buffer zones and mandatory truck route provisions would severely limit the availability of land suitable for logistics uses. They argue that this could push logistics uses further from population centers, increasing the distance that trucks must travel. This could increase the cost of transportation and the emissions from truck traffic. They also state that the bill could hinder efforts to redevelop blighted areas and reduce economic opportunities, particularly in the Inland Empire where logistics uses are a significant driver of economic growth.

   On the other hand, the bill provides numerous offramps that relax its rules if they are found infeasible. For example, if the forklift or small engine electrification requirements are found infeasible for various reasons, then they don't apply. Similarly, the requirement to orient truck bays away from sensitive receptors only applies to the extent feasible, and if siting a warehouse on larger roads is impractical, the developer of a logistics use can receive a waiver if they make certain findings. Environmental justice advocates are concerned that these offramps and other provisions negate the protections of the bill. The Legislature may wish to consider how this bill balances the impact on the logistics industry and nearby communities.

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

According to the Senate Appropriations Committee:

1) Unknown, major one-time local mandated costs, likely in the range of tens of millions to potentially the hundreds of millions of dollars in the aggregate, for 483 cities and 58 counties to update circulation elements by 2026 or 2028, as applicable, and to post specified signage and make specified geographic information system (GIS) data and maps publicly available. Local costs related to circulation element updates would generally not be state-reimbursable because cities and counties have general authority to charge and adjust planning and permitting fees to cover their administrative expenses associated with new local planning mandates, but local costs to post signage and make GIS truck route data publicly available may be reimbursable from the General Fund, subject to a determination by the Commission on State Mandates. (local funds,

General Fund)

2) Staff estimates that the Attorney General (AG) would incur unknown, likely significant costs for attorney workload to conduct enforcement actions and impose fines against local agencies that fail to update their circulation elements by January 1, 2026 or by January 1, 2028, as applicable. (General Fund)

3) Unknown, potentially significant penalty revenue gains. The bill allows the AG to impose a fine of up to $50,000 against a jurisdiction every six months if the updates to the circulation element have not been made, and requires penalty revenues, upon appropriation by the Legislature, to be distributed by the AG to local air districts for air quality improvement efforts. The bill does not specify a fund or account to receive deposits of penalty revenues, and from which appropriations would be made.

4) Unknown significant one-time cost pressures in 2025-26, likely in the low millions, to provide an appropriation of state funds for the South Coast District to deploy mobile air monitoring systems in Riverside and San Bernardino Counties to collect air pollution measurements in communities that are near operational logistics use developments, to conduct air modeling analysis, and report findings to the Legislature. (General Fund)

5) Unknown, likely minor costs for the Department of Transportation to provide consultation and technical assistance to local agencies regarding the mandatory circulation element updates. (State Highway Account)

SUPPORT: (Verified 8/30/24)

Associated General Contractors of California
Associated General Contractors-san Diego Chapter
California Federation of Labor Unions, Afl-cio
California Federation of Teachers
California Hospital Association
California Nurses Association
California State Council of Laborers
California Teachers Association
Southern California Contractors Association
United Domestic Workers/AFSCME Local 3930
United Food and Commercial Workers, Western States Council
United Nurses Association of California

OPPOSITION: (Verified 8/30/24)

Active San Gabriel Valley
Air Quality Monitoring and Exposure Lab
Alliance for Community Empowerment
Alliance of Californians for Community Empowerment
American Planning Association, California Chapter
Atmospheric Modeling Lab
Building Owners and Managers Association of California
California Association for Local Economic Development
California Building Officials
California Business Properties Association
California Business Roundtable
California Environmental Justice Alliance Action
California Grocers Association
California Hispanic Chamber of Commerce
California Manufacturers & Technology Association
California State Association of Counties
California Taxpayers Association
Can Manufacturers Institute
Center for Community Action & Environmental Justice
Center on Race, Poverty & the Environment
Central California Asthma Collaborative
Central California Environmental Justice Network
Central Valley Air Quality Coalition
City of Bakersfield
City of Beaumont
City of Chino
City of Colton
City of Corona
City of Cypress
City of Eastvale
City of Fontana
City of Gustine
City of Hesperia
City of Indio
City of Inglewood
City of Kernan
City of Lakewood
City of Merced
City of Oakley

City of Pico Rivera
City of Rancho Cucamonga
City of Rocklin
City of Roseville
City of San Bernardino
City of San Diego
City of Shafter
City of Stockton
City of Visalia
City of Woodland
Clean Water Action
Cleanearth4kids.org
Communities for A Better Environment
Community Alliance With Family Farmers
Concerned Neighbors of Bloomington
County of Kern
County of Placer
County of Sacramento
County of San Bernardino
County of Tulare
Cultiva LA Salud
Decolonial Praxis Collective
Earthjustice
East Yard Communities for Environmental Justice
Environmental Justice Coalition for Water
Faith in The Valley
Family Business Association of California
Fresno Building Healthy Communities
Friends of Calwa
Greenhouse Gas Emissions Lab
Inland Empire Economic Partnership
Inland Valley Alliance for Environmental Justice
Invest Fresno
Leadership Counsel for Justice and Accountability
League of California Cities
Los Angeles Area Chamber of Commerce
Mead Valley Coalition for Clean Air
Naiop California
National Federation of Small Businesses
Orange County Business Council

People's Collective for Environmental Justice
Perris Neighbors in Action
Physicians for Social Responsibility - Los Angeles
Planning and Conservation League
Powerca Action
Public Health Institute
Real Estate Development Associates
Riverside Neighbors Opposing Warehouses
Rural County Representatives of California
San Joaquin County Board of Supervisors
San Joaquin Partnership
See
Several Individuals
Sierra Club
Southern California Leadership Council
The Institute of Real Estate Management
Town of Apple Valley
Unite for Colton
Urban Counties of California
Valley Improvement Projects
Warehouse Worker Resource Center

Prepared by: Anton Favorini-Csorba / L. GOV. / (916) 651-4119
8/30/24 17:26:59

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

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THIRD READING

Bill No: AB 180
Author: Gabriel (D)
Amended: 8/27/24 in Senate
Vote: 21- Urgency

SENATE BUDGET & FISCAL REVIEW COMMITTEE: 14-5, 8/29/24
AYES: Wiener, Becker, Blakespear, Cortese, Durazo, Eggman, Laird, Menjivar, Newman, Padilla, Roth, Skinner, Smallwood-Cuevas, Wahab
NOES: Niello, Dahle, Grove, Seyarto, Wilk

ASSEMBLY FLOOR: 60-14, 3/23/23 - See last page for vote

SUBJECT: Budget Act of 2024

SOURCE: Author

DIGEST: This is a Budget Bill Junior associated with the Budget Act of 2024. This bill makes substantive changes to the Budget Act.

ANALYSIS: On June 26, 2024, the Governor signed AB 107 (Gabriel), which represented the Legislature's budget, and on June 29, 2024, the Governor signed SB 108 (Wiener), a Budget Bill Junior, which made changes to AB 107. This bill makes changes to the 2024-25 budget represented in AB 107 and AB 108. This bill adds two appropriations, however these appropriations do not change the overall level of state General Fund expenditures reflected in the June budget agreement.

Specifically, this bill:

1) Appropriates $9.9 million, from the Oil, Gas, and Geothermal Administrative Fund (OGGAF) to the Department of Conservation, for purposes of implementing provisions of SB 1137 (Gonzalez), Chapter 365, Statutes of 2022, which established health protection zones that are 3,200 feet from sensitive receptors; and established additional monitoring and leak detection plans for oil and gas operations, as specified.

2) Appropriates $2.32 million OGGAF to the California Air Resources Board for purposes of implementing SB 1137.

Comments

The accompanying trailer bill to this Budget Bill Junior includes an appropriation of $2.65 million from OGGAF to the State Water Resources Control Board for purposes of implementing SB 1137.

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

This bill adds two appropriations totaling $12.22 million from OGGAF.

SUPPORT: (Verified 8/27/24)

None received

OPPOSITION: (Verified 8/27/24)

None received

ASSEMBLY FLOOR: 60-14, 3/23/23
AYES: Addis, Aguiar-Curry, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner Horvath, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Connolly, Mike Fong, Friedman, Gabriel, Garcia, Gipson, Grayson, Haney, Hart, Holden, Irwin, Jackson, Jones-Sawyer, Kalra, Lee, Low, Lowenthal, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Santiago, Schiavo, Soria, Ting, Valencia, Villapudua, Ward, Weber, Wicks, Wilson, Wood, Zbur, Rendon
NOES: Alanis, Megan Dahle, Davies, Dixon, Essayli, Flora, Vince Fong, Gallagher, Hoover, Lackey, Jim Patterson, Joe Patterson, Sanchez, Ta
NO VOTE RECORDED: Cervantes, Chen, Maienschein, Mathis, Waldron, Wallis

Prepared by: Joanne Roy / B. & F.R. / (916) 651-4103
8/29/24 16:35:21

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

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THIRD READING

Bill No: AB 218
Author: Committee on Budget
Amended: 8/27/24 in Senate
Vote: 21- Urgency

PRIOR VOTES NOT RELEVANT

SENATE BUDGET & FISCAL REVIEW COMMITTEE: 14-4, 8/29/24
AYES: Wiener, Becker, Blakespear, Cortese, Durazo, Eggman, Laird, Menjivar, Newman, Padilla, Roth, Skinner, Smallwood-Cuevas, Wahab
NOES: Niello, Grove, Seyarto, Wilk
NO VOTE RECORDED: Dahle

SUBJECT: Oil and gas: trailer bill

SOURCE: Author

DIGEST: This bill is an omnibus Resources budget trailer bill. It contains provisions necessary to implement the 2024 Budget Act.

ANALYSIS:

This bill:

1) Extends several deadlines related to the implementation of SB 1137 (Gonzalez), Chapter 365, Statutes of 2022, which established health protection zones that are 3,200 feet from sensitive receptors; prohibited the Geologic Energy Management Division (CalGEM) in the Department of Conservation (DOC) from approving the drilling of new oil or gas wells or the reworking of existing oil or gas wells within a health protection zone with certain exceptions, and established additional monitoring and other requirements for existing oil and gas operations in a health protection zone. Among some of the deadlines that are extended are the following:

a) Extending the time, which requires operators with a wellhead or other production facilities in a health protection zone to provide specified information relating to leaks to CalGEM, from January 1, 2027, to July 1, 2030.

b) Extending the deadline, which requires CalGEM to provide a legislative report regarding the implementation of health protection zones, from July 1, 2027, to July 1, 2030.

2) Authorizes DOC to assess and levy a supplemental assessment on oil and gas production to ensure funds are available for the full amount of the adjusted cost estimate, as specified; and repeals this authorization on January 1, 2027. This bill specifies that DOC may continue to pursue the collection of unpaid supplemental assessments, penalties, and interest after the supplemental assessment provisions are repealed.

3) Appropriates $2.646 million from the Oil, Gas, and Geothermal Administrative Fund for the 2024-25 fiscal year to the State Water Resources Control Board to support implementation of SB 1137.

Comments

SB 1137 was enacted in 2022, imposing new restrictions on oil and gas wells. An initiative was placed on the November 2024 ballot proposing to repeal SB 1137, but was withdrawn in June 2024. As a result of SB 1137 being in limbo for approximately 18 months, several deadlines in the original bill need extensions to ensure proper implementation in reasonable and pragmatic timeframes.

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

The funding related to the changes in this bill is contained in the 2024 Budget Act.

SUPPORT: (Verified 8/27/24)

None received

OPPOSITION: (Verified 8/27/24)

None received

Prepared by: Joanne Roy / B. & F.R. / (916) 651-4103
8/29/24 16:35:23

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

SENATE RULES COMMITTEE AB 382
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 382
Author: Cervantes (D)
Introduced: 2/2/23
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 16-0, 6/13/23
AYES: Gonzalez, Niello, Allen, Archuleta, Becker, Blakespear, Cortese, Dahle, Dodd, Limón, McGuire, Newman, Nguyen, Seyarto, Umberg, Wahab

SENATE APPROPRIATIONS COMMITTEE: 7-0, 9/1/23
AYES: Portantino, Jones, Ashby, Bradford, Seyarto, Wahab, Wiener

ASSEMBLY FLOOR: 74-0, 5/18/23 (Consent) - See last page for vote

SUBJECT: High-occupancy vehicle lanes: County of Riverside

SOURCE: Author

DIGEST: This bill requires the California State Transportation Agency (CalSTA) to report to the Legislature on the feasibility and appropriateness of limiting the use of high-occupancy vehicle (HOV) lanes on specified routes, and removing double parallel solid lines from HOV lanes, in Riverside County.

ANALYSIS:

Existing federal law:

1) Vests public authorities, including state departments of transportation, with responsibility for establishing occupancy requirements for vehicles using HOV lanes, except that the requirement can be no less than two occupants.

2) Requires the public authority to operate and maintain the HOV lanes in accordance with federal standards to not be degraded, meaning if vehicles operating on the facility are failing to maintain a minimum average operating

speed, as defined, 90% of the time over a consecutive 180-day period during morning or evening weekday peak hour periods (or both).

Existing state law:

1) Requires the Department of Transportation (Caltrans) to report to the transportation policy committees of the Legislature, on or before January 1, 2020, on the feasibility and appropriateness of limiting the use of HOV lanes to high-occupancy vehicles and eligible vehicles, as defined, only during the hours of heavy commuter traffic on both State Route (SR) 91 between Interstate 15 (I-15) and I-215 in the County of Riverside, and SR 60 in the County of Riverside.

2) Authorizes Caltrans and local authorities, with respect to highways under their respective jurisdictions, to permit preferential use of highway lanes for HOVs, under specific conditions.

3) Requires Caltrans, or the appropriate local entity, to produce engineering reports that estimate the effect of an HOV lane prior to establishing the lane. The reports must evaluate the proposals for safety, congestion, and highway capacity.

This bill requires CalSTA to report to the transportation policy committees of the Legislature on or before January 1, 2025 on:

1) The feasibility and appropriateness of limiting the use of HOV lanes to high-occupancy vehicles and eligible vehicles only during heavy commuter traffic on both SR-91 between I-15 and I-215, and SR-60 in Riverside County; and,

2) The feasibility and appropriateness of removing any double parallel solid lines to restrict the entrance into or exit from those lanes, including the use of the appropriate markings and signage, as specified in the California Manual on Uniform Traffic Control Devices, from HOV lanes in Riverside County, except for high-occupancy vehicle toll lanes, as specified.

Comments

1) *Purpose of the bill*. According to the author, "As a result of the enactment of Assembly Bill 91 (Cervantes, 2018) in 2019, the California Department of Transportation (CalTrans) released a wholly inadequate and insubstantial report to the Legislature on whether new or existing carpool lanes in Riverside County

could use ‘part-time operation,’ which would allow any vehicle to access the carpool lanes during non-peak traffic hours. In the years since that insufficient report was issued, CalTrans has repeatedly broken promises made to me on providing the Legislature with this information. Due to this continued failure of CalTrans—a manifestation of the Department’s ongoing lack of respect for the Legislature as an institution—I introduced Assembly Bill 382 to require the California Transportation Agency provide a follow-up report to the Legislature. The data collected through this bill will help determine the viability of these options to make carpool lanes work better and reduce traffic in Riverside County. It would also provide both the Legislature and federal regulators with information needed to ensure that Riverside County continues to comply with federal clean air regulations.”

2) *HOV lanes in California.* According to Caltrans, HOV lanes, also known as carpool or diamond lanes, are a traffic management strategy to promote and encourage ridesharing; thereby alleviating congestion and maximizing the people-carrying capacity of California highways.

   HOV lanes are usually located on the inside (left) lane and are identified by signs along the freeway and white diamond symbols painted on the pavement. In Northern California, HOV lanes are only operational Monday through Friday during posted peak congestion hours, for example: between 6 a.m. - 10 a.m. and 3 p.m. - 7 p.m. All other vehicles may use the lanes during off-peak hours. This is referred to as “part-time” operation.

   In Southern California, the HOV lanes are in effect 24 hours a day, seven days a week, referred to as "full-time" operation, with two exceptions. First, the Moreno Valley Freeway, between the east Junction of SR 60 at I-215 and Redlands Boulevard in Moreno Valley, operates Monday through Friday from 6 a.m. to 10 a.m. and 3 p.m. to 7 p.m. Second, AB 1871 (Runner, Chapter 337, Statutes of 2000) created a demonstration project to evaluate part-time use of the HOV lanes on SR 14. Caltrans continues to operate part-time HOV lanes on a portion of SR 14.

   The operational practices vary between Northern California versus Southern California because of traffic volumes and commuter patterns in the two regions. Northern California highways usually experience two weekday congestion periods during peak morning and afternoon commute hours followed by a long period of non-congestion. Using a full-time operation would leave the HOV lane relatively unoccupied during off-peak hours and would not constitute an

efficient utilization of the roadway. Southern California experiences very long hours of congestion, typically between six to 11 hours per day, with short off-peak traffic hours; which could make part-time operation less viable.

HOV lanes work best where significant roadway congestion during peak periods occurs. Optimum HOV lane usage is generally considered to be about 1,650 vehicles per hour. In contrast, mixed-flow lanes are generally expected optimally to carry between 1,800 and 2,000 vehicles per hour.

3) *SoCal interested in "part-time" operation.* Numerous pieces of legislation have been introduced, and some approved by the Legislature, to change specific HOV corridors in Southern California to part-time. For example, AB 210 (Gatto, 2015) and AB 405 (Gatto, 2013) would have required the conversion of HOV lanes on SR 134 and SR 210, in Los Angeles County, from full-time to part-time operation. Governor Brown vetoed both bills, stating in a veto message for AB 210, "I continue to believe that carpool lanes are especially important in Los Angeles County to reduce pollution and maximize the use of freeways. Therefore, we should continue to retain the current 24/7 carpool lane control."

4) *Insufficient information for Riverside County.* AB 91 (Cervantes, Chapter 468, Statutes of 2018) required Caltrans to report to the Legislature on the feasibility and appropriateness of limiting the use of HOV lanes to high-occupancy vehicles and eligible vehicles only during the hours of heavy commuter traffic on both SR-91 between I-15 and I-215, and SR-60 in Riverside County. In 2019, Caltrans prepared the Riverside County Carpool Lane Hours of Operation Report.

The report gives little direction to Riverside County on the feasibility and appropriateness of limiting the use of HOV lanes. The report states, "Caltrans recommends that any decisions on the conversion of carpool lanes on SR-91 between I-15 and I-215, and SR-60 in Riverside County from full-time to part-time should be deferred until Caltrans District 8 develops a Managed Lanes System Plan. The department would not be able to make a fully informed decision on the impacts of these changes or how best to approach such a conversion until this study is concluded."

The report does raise some potential issues with part-time HOV operation including the possible need for air quality mitigation, "any changes to part-time carpool lanes could additionally result in negative air quality impacts. If air

quality impacts occur, the department would be responsible for implementing costly air quality mitigation measures. This concern is compounded by the fact that the areas surrounding SR-91, between I-15 and I-215, and SR-60 in Riverside County are part of federal non-attainment areas for multiple criteria pollutants. Until these potential impacts are better studied and understood, it would not be appropriate for Caltrans to advocate for their change at this time."

As of the time of this analysis, Caltrans District 8 has not published a Managed Lanes System Plan; however, they did complete a Managed Lanes Feasibility Study in April 2021 to establish the need assessment of managed lanes and to inform the development of the plan. AB 382 requires CalSTA to report to the Legislature on what was required of Caltrans in AB 91, and to additionally report on the feasibility and appropriateness of removing double parallel solid lines to restrict entrance into or exit from HOV lanes in Riverside County. After this committee approved a similar bill last year, AB 2599 (Cervantes, 2022), Caltrans and CalSTA committed to completing the report and submitting the requested data to the Legislature. Due to that commitment, the author requested the bill be held in the Senate Appropriations Committee. However, the report is not complete, therefore, as mentioned, the author reintroduced the bill. According to Caltrans, the report, as called for by AB 382 and AB 2599, will be released this year.

Related/Prior Legislation

AB 2599 (Cervantes, 2022) would have required the California CalSTA to report to the Legislature by January 1, 2024 on the feasibility and appropriateness of limiting the use of HOV lanes to hours of heavy commuter traffic and removing double parallel solid lines from HOV lanes on SRs 91 and 60 in Riverside County, as specified. AB 2599 was held in the Senate Appropriations Committee at the request of the author.

AB 91 (Cervantes, Chapter 468, Statutes of 2018) required Caltrans to report to the Legislature, on or before January 1, 2020, on the feasibility and appropriateness of limiting the hours of HOV lanes in Riverside County.

SB 838 (Committee on Budget and Fiscal Review, Chapter 339, Statutes of 2016) directed Caltrans to prepare and submit a report to the Legislature on or before December 1, 2017, on the degradation status of HOV vehicle lanes on the state highway system.

AB 210 (Gatto, 2015) would have required the conversion of HOV lanes on SR 134 and SR 210 from full-time to part-time operation. AB 210 was vetoed by Governor Brown.

AB 405 (Gatto, 2013) was nearly identical to AB 210, 2016. AB 405 was vetoed by Governor Brown.

AB 2200 (Ma, 2012) would have suspended the HOV lane on eastbound Interstate 80 in the San Francisco Bay Area during the morning commute. AB 2200 was vetoed by Governor Brown.

AB 1871 (Runner, Chapter 337, Statutes of 2000) prohibited, until June 1, 2002, HOV lanes from being constructed on SR 14 between the City of Santa Clarita and the City of Palmdale unless the lane was established as an HOV lane only during the hours of heavy commuter traffic.

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

According to the Senate Appropriations Committee:

- One-time Caltrans costs of up to $100,000 to conduct the feasibility analysis on the impact of limiting HOV lane use to periods of heavy commuter traffic on specified highways. Staff notes that Caltrans would conduct the majority of the workload, but the final report would be produced by CalSTA. (State Highway Account)

- Potential future one-time cost pressures, likely in excess of $1 million to replace signage in the corridor, to the extent the report indicates that it is feasible and appropriate to convert the specified HOV lanes to operational use only during peak commuting hours. (State Highway Account)

SUPPORT: (Verified 9/1/23)

None received

OPPOSITION: (Verified 9/1/23)

None received

ASSEMBLY FLOOR: 74-0, 5/18/23
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy

Carrillo, Chen, Connolly, Megan Dahle, Davies, Dixon, Essayli, Flora, Mike Fong, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, Mathis, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Wallis, Ward, Weber, Wicks, Wood, Zbur, Rendon

NO VOTE RECORDED: Cervantes, Vince Fong, Friedman, Villapudua, Waldron, Wilson

Prepared by: Melissa White / TRANS. / (916) 651-4121
9/2/23 14:58:38

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

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THIRD READING

Bill No: AB 863
Author: Aguiar-Curry (D), et al.
Amended: 8/27/24 in Senate
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 5-2, 6/19/24
AYES: Allen, Gonzalez, Hurtado, Menjivar, Skinner
NOES: Dahle, Nguyen

SENATE JUDICIARY COMMITTEE: 9-2, 7/2/24
AYES: Umberg, Allen, Ashby, Caballero, Durazo, Laird, Roth, Stern, Wahab
NOES: Wilk, Niello

SENATE APPROPRIATIONS COMMITTEE: 5-0, 8/15/24
AYES: Caballero, Ashby, Becker, Bradford, Wahab
NO VOTE RECORDED: Jones, Seyarto

SUBJECT: Carpet recycling: producer responsibility organizations: fines: succession: training

SOURCE: Author

DIGEST: This bill makes substantive changes to the operation of the extended producer responsibility program (EPR) for carpets, establishing a single producer responsibility organization to operate the program, specifying recycling rates and other metrics to be included in the program's stewardship plan, and establishing new reporting and enforcement requirements for the EPR program.

Senate Floor Amendments of 8/27/24 make several changes to reduce the scope of AB 863 to an extended producer responsibility (EPR) carpet program instead of an EPR program for all flooring types, and adds clarity to the structure and transition from the existing carpet stewardship organization to the carpet producer responsibility organization (PRO) established in this bill. These amendments further scale back the scope of this bill from creating an EPR program for all

flooring types, to making changes to the existing carpet EPR program. The amendments specifically remove a needs assessment to evaluate whether flooring types should be under a stewardship program, reduces the number of non-voting members appointed by CalRecycle to the carpet EPR stewardship board, lowers postconsumer recycled content requirements for carpets in the program, and creates an 8% carve-out of the assessments of the program for apprenticeship training, among other changes.

ANALYSIS:

Existing law:

1) Establishes the Product Stewardship for Carpets Program to increase the amount of post-consumer carpet that is diverted from landfills and recycled into secondary products or otherwise managed in a manner that is consistent with the state's hierarchy for waste management practices. (Public Resources Code (PRC) § 42970 et seq.)

2) Requires manufacturers of carpets sold in California to submit a carpet stewardship plan to CalRecycle that includes a goal of achieving a 24% recycling rate for carpet by January 1, 2020. (PRC § 42972)

3) Requires the carpet stewardship plan to establish a carpet stewardship assessment per unit of carpet sold in the state to fund the administrative, operational, and capital costs of the carpet stewardship plan. (PRC §42972(a)(7))

4) Subjects the financial activities of the organization or individual manufacturer in the carpet stewardship plan to an independent audit, which may be reviewed by CalRecycle. (PRC §42972(6)).

5) Requires CalRecycle to enforce the provisions of the program. Establishes civil penalties of up to $5,000 per day, or $10,000 per day for violations that are intentional, knowing, or negligent. (PRC § 42972)

6) Requires that some of the funds from carpet assessments be allocated for grants to state-approved apprenticeship programs for training apprentice and journey-level carpet installers in proper carpet recycling practices. (PRC §42972(4)).

7) Establishes an advisory committee to make recommendations on carpet stewardship plans submitted to CalRecycle. (PRC § 42972.1)

This bill:

1) Establishes a single PRO for carpet management and requires that the PRO to develop a producer responsibility plan for the collection, transportation, recycling, and the safe and proper management of covered products in the state.

2) Establishes specific timelines and processes for a PRO to develop a product stewardship plan for carpet including requiring the PRO to:
   a) Develop the product stewardship plan within 12 months of the regulations being adopted. Requires CalRecycle to review the plan for compliance within 120 days of its receipt.
   b) Conduct a public consultation process, including at least two public workshops, with producers, wholesalers, retailers, service providers, consumers, local governments, installers, and public interest groups.
   c) Review its producer responsibility plan at least every five years.
   d) Implement the approved producer responsibility plan within 12 months of the department's approval of the producer responsibility plan.

3) Develops criteria for the stewardship program, which are subject to adjustment by CalRecycle and include:
   a) A description of the PRO's annual assessment and the metrics it will use to determine how collection, sorting, and transportation outcomes align with projections.
   b) A description of the education component.
   c) A contingency plan should the plan expire without approval of a new plan.
   d) A mechanism for submitting a new plan to CalRecycle within 12 months before the expiration of the carpet stewardship plan.

4) Establishes a 5% postconsumer recycled carpet content requirement for carpets beginning January 1, 2028, and authorizes CalRecycle to adjust the rate after January 1, 2029

5) Specifies that CalRecycle may determine the appropriate formula for performance standards.

6) Establishes an eco-modulated fee, wherein producers pay different amounts to the PRO depending on the products they produce.

7) Requires CalRecycle to develop regulations to oversee the program, with costs covered by the PRO. The bill further requires that the department post a list of producers that are in compliance with the requirements of the program on their internet website.

8) Require a carpet stewardship organization to make 8% assessments collected annually available for grants to apprenticeship programs if certain conditions are met, with the requirement that awardees report on their spending to the PRO and CalRecycle, and that funding is not expended beyond what is accounted for in approved projects.

9) Requires that the carpet stewardship organization include four nonvoting board members including two labor representatives specifies that the stewardship organization shall pay the travel costs and expenses of these members to participate in all board meetings.

10) Specifies that the carpet stewardship organization shall not delegate any responsibility of its board of directors, or any decisionmaking responsibility regarding a carpet stewardship plan, to a person who is not a member of its board of directors.

11) Establishes reporting requirements, that the PRO will submit to CalRecycle before July 1st of each year information on the program, including the total amount of carpets collected and recycled in that year, the expenditures of the PRO, and efforts taken to achieve the goals of the program, along with other information.

12) Establishes civil penalty amounts for violations EPR program of $10,000 per day, or $25,000 per day if the violation is intentional or knowing.

13) Determines that if the stewardship organization or PRO violates this chapter three or more times, CalRecycle may make the PRO permanently ineligible to act as the producer responsibility organization for the program.

14) Specifies that if CalRecycle determines that a manufacturer or PRO does not meet the requirements of this section, then CalRecycle may make regulations that develop actions the manufacturer or PRO must take in order to come into compliance.

Background

1) *Introduction to California's Carpet EPR Program.* Discarded carpet is one of the 10 most prevalent waste materials in California landfills, comprising more than three percent of waste by volume disposed of in California in 2008. To divert carpets from landfills and recycle carpets into other products, California established a carpet stewardship program, created by AB 2398 (Perez, Chapter 681, Statutes of 2010). The Carpet Stewardship Program is an extended producer responsibility (EPR) program. EPR is a strategy that places shared responsibility for end-of-life product management on the product producers and all entities involved in the product chain, instead of on the general public and local governments.

   Under the carpet EPR program, manufacturers or distributors of carpets are required to design and implement their own stewardship program to reach certain carpet recycling goals. The program is funded by assessments paid by manufacturers per yard of carpet sold. The stewardship organization that currently operates California's carpet stewardship program, with direction and oversight from CalRecycle, is the Carpet America Recovery Effort (CARE). CARE is a third-party nonprofit carpet stewardship organization based in Georgia. The law allows other stewardship organizations to submit stewardship plans to CalRecycle for approval, but CARE is currently the only carpet stewardship organization in California.

2) *Lifecycle of a Carpet in the Stewardship Program*. Carpets are part of the Carpet EPR program if they are made or imported into California, excluding area rugs. Carpets that are sold into the state have an extra fee attached to them to cover their end-of-life care. When carpets are torn up and removed from a building, they are collected into the carpet stewardship program through a network of collection sites overseen by CARE. Once carpets are collected, they are sorted and shipped to a recycling facility, where they can be downcycled into building products (e.g., insulation for commercial buildings).

3) *Funding Mechanism for the Carpet EPR.* The Carpet EPR program is funded by an assessment fee which is currently less than 50 cents per square yard of carpet. The assessment is collected by retailers or dealers when they sell carpets in California. Retailers or dealers are then reimbursed by manufacturers on a quarterly basis. CARE allocates the money to run the Carpet Stewardship Program. This includes funding three primary elements: subsidies (77.7%), program expenses (14.0%), and administration expenses (8.4%).

4) *CARE's Carpet Catastrophe*. The carpet EPR program under CARE's management and CalRecycle's oversight has been fraught with setbacks and failures. Since 2016, CARE has failed four consecutive times to produce a stewardship plan that CalRecycle has approved. CalRecycle has rejected numerous plans because CARE has failed to provide suitable and quantifiable five-year and annual goals to expand and incentivize markets for postconsumer carpet. In spite of the significant amount of money collected by CARE from California consumers, CalRecycle found that CARE did not meet the program requirements in 2013, 2014, 2015, and 2016. As a result, CalRecycle began an enforcement proceeding against CARE in 2017. In March of 2021, CARE and CalRecycle reached a settlement that required CARE to pay $1.175 million in penalties. Because of CARE's inability to develop an adequate plan, the carpet stewardship plan had operated under either an outdated carpet stewardship program or an interim plan established between CARE and CalRecycle from 2016 until 2023.

Comments

1) *Purpose of Bill.* According to the Author "Since July 2011, California consumers have paid a carpet stewardship assessment fee when purchasing carpet sold in California. This fee funds a statewide carpet recycling program known as the Carpet America Recovery Effort (CARE), which is a Producer Responsibility Organization (PRO) designed and implemented by carpet manufacturers with CalRecycle oversight. However, CARE has repeatedly failed to administer the program effectively and equitably and has required oversight and repeated enforcement by CalRecycle. Recyclers and collectors have left the state or gone out of business due to a lack of feedstock, while carpet is still being landfilled. This bill will improve accountability for CARE or any other consumer-funded carpet recycling program by increasing civil penalties for violating relevant laws and making repeat offenders ineligible to run this program."

2) *Airing out the rugs: Needed Carpet EPR Reform.* This bill replaces the existing carpet EPR program with a new program that operates with a single PRO, sets explicit goals that must be accomplished in the stewardship plan (including hitting specified postconsumer recycled content goals, density of collection sites, and establishing an eco-modulated fee) and has enhanced reporting and enforcement. Creating a new program with a new PRO administrative structure and new programmatic processes and goals could create a fresh start for carpet EPR, separate from the historic failures of the existing carpet EPR program.

However, there is also the potential that this change in structure and operations will dissolve existing infrastructure and relationships for entities currently engaged in the carpet EPR program.

Because the carpet EPR program is led by a PRO, it strongly relies on the self-direction of the stakeholders involved, with oversight from CalRecycle. Given the active and creative role of industry in developing the stewardship plan to set and steer towards the objectives set in statute, it is likely to be essential to the success of the program to involve stakeholders in developing the legislation.

3) *Pass the bottle: minimum recycled content*. This bill requires that old carpets be recycled into new carpets by setting a 5% postconsumer recycled carpet content requirement. This is an important move to ensure that the carpets are actually moving closer to a circular economy, where old material is recycled into new products. Importantly, this bill also specifies that the recycled material that is put into new carpets cannot come from beverage containers. Currently, California's bottle bill has created a relatively clean stream of high-quality plastics (PET and HDPE), which can easily be turned into recycled content. As a result of this relative success, however, other products with recycled content mandates use bottles from the bottle bill program to reach their postconsumer recycled content rates. This not only prevents more closed-loop recycling for bottles (wherein old bottles are recycled into new bottles), it also disincentives the creation of closed-loop recycling for other products, or creating new streams of separate, clean material that could be used as feedstock for recycled content.

4) *Three strikes and we're out (of options).* This bill establishes a three-strike rule for the PRO: if the PRO violates the provisions of the program three times, then that PRO or manufacturer can no longer operate the program. Establishing a three-strike rule for a program that runs in perpetuity may lead to a situation where any program operator eventually accrues three violations of the program and is no longer eligible to run the program. It is unclear what severity of a violation could potentially count as a strike against a program operator, meaning that even small mistakes or errors in the plan could potentially count as a strike. Since all program operators are fallible, it is possible that this three-strike provision could result in a high turnover of program operators, resulting in lost institutional knowledge and efficiency.

However, given the historic inability of the CARE program to achieve all its targets or develop a plan that CalRecycle finds acceptable, it seems appropriate that stricter measures be taken both to penalize the stewardship program for failing to develop and meet adequate targets, and to enhance CalReycle's authority to act as a backstop if the PRO continues to fail at developing a stewardship plan or reaching its targets.

5) *Non-voting board members*. Many EPR programs in California rely on advisory boards to advise and supplement the expertise of the PRO, which is comprised of manufacturers and other producers. This bill takes a slightly different approach by embedding representatives that are outside of the carpet manufacturing industry—labor representatives and NGO's—into the governing board of the stewardship organization as non-voting members. In conjunction with the requirement in this bill that the stewardship organization does not delegate any of its decision-making power to other entities, having these non-industry representatives as part of the board ensures that they are at least at the table for every decision made by the carpet stewardship board.

6) *Senate Floor Amendments.* Floor amendments taken August 27, 2024, make several significant changes to this bill, including changes that: remove a needs assessment to evaluate whether flooring types should be under a stewardship program, reduce the number of non-voting members appointed by CalRecycle to the carpet EPR stewardship board, removes padding and cushions from the bill, lowers postconsumer recycled content requirements for carpets in the program, and creates an eight percent carve-out of the assessments of the program. The amendments also return an important amendment that had originally been added in the Assembly Natural Resources Committee which creates a backstop for enforcement by authorizing CalRecycle to make regulations to develop procedures to bring any PRO or manufacturer that is not compliant with provisions in the bill back into compliance.

Related/Prior Legislation

AB 729 (Chu, Chapter 680, Statutes of 2019) increased, beginning January 1, 2020, a portion of non-compliance penalties for the Carpet Stewardship Program from $1,000 per day to $5,000 per day, and requires carpet stewardship plans to include a contingency plan should the plan terminate or be revoked by CalRecycle.

AB 1158 (Chu, Chapter 794, Statutes of 2017). Established an advisory committee for the carpet stewardship organization, which includes representation from either the Southern California Resilient Floor and Decorative Covering Crafts Joint

Apprenticeship and Training Committee or the Northern California Floor Covering Finishing Trades Institute Joint Apprenticeship Training Committee.

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

According to the Senate Appropriations Committee, there are ongoing costs in the millions of dollars annually (special fund) for the Department of Resources Recycling and Recovery (CalRecycle) to review plans and reports, perform auditing, process payments, develop regulations and guidelines, receive written notices, promulgate expedited regulations, and provide legal support. In addition, unknown but potentially significant one-time cost pressures (General Fund or special fund) to appropriate funding for CalRecycle to conduct a needs assessment related to resilient flooring recycling and prepare a report for the Legislature.

SUPPORT: (Verified 8/28/24)

Again
Apex Manufacturing LLC
Aquafil Carpet Recycling
Arizona Alternative Materials
Atrium 916
Better Image Recycling
Broadview Group International
California Product Stewardship Council
Californians Against Waste
Circular Polymers
Clover Plastics, LLC
Commercial Flooring Solutions by Acr
Concrete Polish Surface
Continental Flooring INC.
County of Santa Clara
Dream Floor Covering INC.
Dts Company
Elias Flooring INC.
Environmental Working Group
Floor Tech America INC
Frankfort Plastics INC
Full Circle Environmental
Genesis Floor Covering
Jjj Floor Covering, INC.
League of California Cities

Lu 1247 Resilient Floor Layers of Socal
Lu 1399 San Diego
Lu 636 Glaziers, Glass, & Architectural Metal Workers
Lu 831 Tradeshow & Signcraft Installers
Marin Sanitary Service
National Stewardship Action Council
National Waste Recovery
Nc Flooring Group INC
New Goal Landscaping
Painters Local 1036
Plastic Pollution Coalition
Recology
Reliable Floor Covering, Inc,
Republic Services INC.
Repurpose Earth
Reterra
Rethinkwaste
Reuse Refuse
Rise Building Products
San Joaquin; County of
State Building and Construction Trades Council of California
Stopwaste
Transportek Logistics INC
Western Placer Waste Management Authority
Waste Management
Xt Green, INC.
Zero Waste Sonoma

OPPOSITION: (Verified 8/28/24)

Alliance for Automotive Innovation
Asian American Hotel Owners Association
Bellbridge, INC.
Bentley Mills
Calchamber
California Apartment Association
California Building Industry Association
California Carpet Stewardship Program
California Chamber of Commerce
California Hotel & Lodging Association
California Manufacturers & Technology Association

California Retailers Association
Carpet & Rug Institute
Carpet Manufacturers Warehouse
Cm Hospitality Carpets
Crossley Axminster, INC.
Dixie Group
Griffith Industries, INC.
Jd Staron
Mannington Mills, inc.
Mantra Style Dba Decorative Concepts and North River Limited
Marquis Industries, INC.
Matthews & Parlo Carpet Wholesalers
Milliken
Mohawk Industries, INC. And Affiliated Entities
Next Floor, INC.
Prestige Mills, INC.
Scott Group Custom Carpets
Shaheen Carpet Mills
Shaw Industries Group, INC.
Wm. T. Burnett & Co.

ARGUMENTS IN SUPPORT: The National Stewardship Action Council and a coalition of recycling, labor, and local governments write in support of this bill, "Since July 2011, a carpet stewardship assessment fee has been added to the purchase price of carpet sold in California to fund a statewide carpet recycling program, which is designed and implemented by carpet manufacturers with CalRecycle oversight. The Carpet America Recovery Effort (CARE) is the Producer Responsibility Organization (PRO) that has administered the program on behalf of carpet manufacturers since inception. CARE has failed to administer the program effectively, frequently submitting inadequate plans and annual reports and being consistently out of compliance. Their failures have required significant oversight and enforcement by CalRecycle, resulting in their referral to the Waste Permitting, Compliance, and Mitigation Division for potential enforcement three times since April 2021. Recyclers and collectors have left the state or gone out of business due to a lack of feedstock, while carpet is still being landfilled.

CARE's consistent failure to successfully administer California's carpet recycling program has resulted in more carpet in landfills, wasted consumer fee money, constant litigation with the state, and permanent damage to California's recycling infrastructure. AB 863 will make a stewardship organization that violates the law

three times ineligible to operate the program and increases the penalties to $10,000 per day, or $25,000 per day if the violation is intentional."

ARGUMENTS IN OPPOSITION: The Carpet Recycling Institute and a large industry coalition write in opposition to the bill, stating: "It is important that the committee recognize the existing California Carpet Stewardship Program, administered through Carpet America Recovery Effort (CARE), which has been a highly successful program with a continuously increasing recycling rate. The implementation of AB 863 will halt this program and structure and require it to start over. CARE has achieved significant milestones, including:
1. Increased recycling rate from 4% in 2012 to 41% in 2024.
2. Collected over 1.2 billion pounds of post-consumer carpet since 2011, enough to fill the Rose Bowl.
3. Expanded collection to every county in the state with over 350 collection sites across California at the end of 2023.

AB 863 proposes the establishment of a Producer Responsible Organization (PRO) that has a limited track record and appears to significantly increase the costs of administering recycling programs as compared to other models. We should wait to see the progress in the implementation of SB 54 and other programs and learn from their successes and failures regarding the PRO model.
• AB 863 would replace a successful carpet program that should be allowed to continue its success.
• AB 863 creates a complicated program that has failed to analyze other recycling programs that are already operational.

Rather than rush to pass a complex, costly, and poorly considered flooring recycling program without the input of stakeholders, we believe it is more prudent to bring all stakeholders together to determine what may be needed to assist recycling in California."

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8/28/24 23:29:08

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

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THIRD READING

Bill No: AB 922
Author: Wicks (D)
Amended: 1/22/24 in Assembly
Vote: 21

SENATE HUMAN SERVICES COMMITTEE: 2-1, 6/3/24
AYES: Blakespear, Menjivar
NOES: Ochoa Bogh
NO VOTE RECORDED: Alvarado-Gil, Hurtado

SENATE HUMAN SERVICES COMMITTEE: 3-0, 7/1/24
AYES: Blakespear, Limón, Menjivar
NO VOTE RECORDED: Alvarado-Gil, Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: 4-2, 8/15/24
AYES: Caballero, Ashby, Becker, Wahab
NOES: Jones, Seyarto
NO VOTE RECORDED: Bradford

ASSEMBLY FLOOR: 61-10, 1/30/24 - See last page for vote

SUBJECT: Prepared Meals Delivery Program

SOURCE: Alameda County Board of Supervisors

DIGEST: This bill requires the California Department of Social Services (CDSS) to establish the Prepared Meals Delivery Program for the purpose of providing meals to unhoused individuals, subject to an appropriation. This bill requires the County of Alameda to participate in the Prepared Meals Delivery Program, and requires the County of Alameda to perform program-related functions.

ANALYSIS:

Existing law:

1) Establishes under federal law the Supplemental Nutrition Assistance Program (SNAP) to promote the general welfare and to safeguard the health and wellbeing of the nation's population by raising the levels of nutrition among low-income households. (7 USC Section 2011 et seq.)

2) Establishes the CalFresh program to administer the provision of federal SNAP benefits to families and individuals meeting specified criteria. (WIC 18900 et seq.)

3) Defines "eligible foods" to include any food or food product intended for human consumption except alcoholic beverages, tobacco, and hot foods and hot food products prepared for immediate consumption; meals prepared and delivered by an authorized meal delivery service or meals served by an authorized communal dining facility for the elderly, Social Security Income households or both, to households eligible to use SNAP benefits for communal dining; among others, as specified. (7 CFR 271.2)

4) Establishes the Restaurant Meals Program (RMP) under SNAP to allow eligible recipients who are experiencing homelessness, are elderly, or have a disability to purchase hot, prepared food from participating restaurants. (7 USC 2020, WIC 18919 et seq.)

5) Defines "restaurant" to include, but is not limited to, an on-campus qualifying food facility, an eat-in establishment, a grocery store delicatessen, and a takeaway-only restaurant. (WIC 18919(g))

This bill:

1) States the Legislature's intent for this act to establish a meal delivery program to provide meals to unhoused individuals in order to contribute to lasting food security and a path to stable, permanent housing for unhoused individuals. States that, unlike other public-private partnerships that require federal registration, meals provided through meal delivery programs require less burden on small businesses that are not otherwise involved or familiar with the provision of social services. States that meal delivery programs also deliver to offsite locations where food assistance is needed most, removing the daily

barrier of long travel between encampments and retail centers that are less tolerant of temporary shelters.

2) Requires CDSS, subject to an appropriation in the annual Budget Act or another statute for this purpose, to establish the Prepared Meals Delivery Program for the purpose of providing meals to unhoused individuals.

3) Requires the County of Alameda to participate in the Prepared Meals Delivery Program and to select a community-based organization as a grantee of funding for the Prepared Meals Delivery Program based on a bidding process, as specified. Requires the successful bidder to demonstrate that it has a track record of successfully providing meal services for the unhoused community, and that it has known relationships with identified partners that will be providing the services.

4) With an average cost that shall be discounted from retail cost, requires food to be delivered directly to unhoused encampments as identified by the community-based organization grantee through a restaurant-based accessible prepared meal model. Requires the grantee to provide information to recipients on enrollment into the CalFresh program as part of meal delivery services.

5) Requires the County of Alameda to submit periodic reports of performance data to CDSS during the course of implementing the Prepared Meals Delivery Program, including, but not limited to, all of the following:

   a) The number of individuals served.

   b) The ZIP Code of the location where individuals are served.

   c) The average cost to serve each individual.

   d) An accounting for how funds were spent, including the percentage of funds that went to administration and operation.

   e) Information gathered from individuals served regarding needed services.

6) Requires CDSS, no later than June 1, 2026, to submit a report to the Legislature, as specified, evaluating the effectiveness of the Prepared Meals Delivery Program. Makes this provision inoperative on June 1, 2030.

7) States legislative findings and declarations that a special statute is necessary and that a general statue cannot be made applicable within the meaning of the California Constitution because of the unique circumstances of the County of Alameda with regard to its readiness to participate in the Prepared Meals Delivery Program based on the county's available infrastructure and services.

8) States if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies for those costs shall be made pursuant to Part 7 of Division 4 of Title 2 of Government Code.

Background

Homelessness in California. Since 2016, homelessness in the U.S. 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, mental health and substance use issues, greater exposure to violence, malnutrition, extreme weather, and criminal charges. The health, personal, and economic challenges faced by individuals and families experiencing chronic homelessness 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.

In 2023, California counted 181,399 people experiencing homelessness, 68% of which were unsheltered. California's unsheltered homeless population accounted for 49 percent of all people experiencing unsheltered homelessness in the U.S. (123,423 people), over nine times the number of unsheltered people in Oregon, the state with the next highest number (13,004).

In 2022, the Alameda County Point-in-Time count showed a 21.5 percent increase in people experiencing homelessness in Alameda County between 2019 and 2022. There are over 9,747 residents experiencing homelessness countywide, of which 7,100 residents in Alameda County are completely unsheltered. The 2022 Point-in-Time report also found that only 36 percent of residents experiencing homelessness are receiving food assistance. It can be hard for people experiencing homelessness to find a food bank or even a participating Restaurant Meals Program vendor due to travel barriers. According to Invisible People, "Whether it's to get to social service appointments, food banks, shelters, or any other resource, much time and

energy is devoted to transportation… Many homeless people average 10-15 miles per day of walking".

Food Insecurity in California. Food is a basic need and is becoming harder to obtain for more and more Californians. The combined effects of the COVID-19 pandemic, housing and food related inflation, wildfires, and drought have had a great effect on food security across the state. In 2020, the overall rate of food insecurity remained steady nationally at about 10.5 percent of U.S. households. Yet, the rate of food insecurity among Black households rose to 21.7 percent (3.63 million), and for Hispanic/Latinx households the rate rose to 17.2 percent (3.18 million). This indicates that Black and Hispanic households were more heavily impacted by food insecurity in 2020 than other racial and ethnic groups. As of early 2022, one of every ten adults in California report that they struggle to consistently put enough food on their table.

People experiencing food insecurity are disproportionately affected by chronic diseases such as heart disease, obesity, diabetes, and high blood pressure. In addition, not having enough healthy food can have serious impacts on a child's physical and mental health, academic achievement, and future economic prosperity. Research shows an association between food insecurity and delayed development in young children; risk of chronic illnesses like asthma and anemia; and behavioral problems like hyperactivity, anxiety, and aggression in school-age children.

CalFresh. CalFresh, California's version of federal SNAP benefits and the state's largest nutrition assistance program, provides monthly food benefits to qualified low-income individuals and families to assist with the purchase of the food they need to maintain adequate nutrition levels. During fiscal year 2022–23, the total caseload for CalFresh was 2,943,081, a 13.1 percent change from the prior fiscal year.

The CalFresh program is administered by CDSS at the state level and by counties at the local level. CalFresh benefits are federally funded and national income eligibility standards and benefit levels are established by the federal government. Although benefits are federally funded, costs to administer the program are shared by state, county, and federal governments.

California determines CalFresh eligibility by checking whether the applicant's gross monthly income is 200 percent of the federal poverty level or less for their household size. Households with seniors or disabled members are not subject to the

gross income criteria; however, their net monthly income must be 100 percent of the federal poverty level or below. The benefit amount a household may receive is dependent upon various circumstances such as household size, countable income, and monthly household expenses. Benefits are made available to recipients on an EBT card, which is similar to an automated teller machine card and allows an individual to purchase food at point-of-sale devices in stores and farmers' markets.

Restaurant Meals Program (RMP) For most recipients, federal SNAP rules limit the purchase of items with SNAP benefits to only non-prepared food items, such as breads, meats, fruits, and vegetables. Non-food items such as pet food and soap, as well as any hot foods or foods that will be eaten in the store, cannot be purchased using SNAP benefits. A growing number of advocates and academics have warned that many Americans "no longer have the time, skills, resources or physical ability to prepare the kinds of recipes" envisioned at the launch of the nutrition assistance program.

The RMP was created to help expand access to food for people who are aged 60 or older (or their spouse), living with a disability (or their spouse), or experiencing homelessness who do not have a place to store and cook food. The RMP enables qualified SNAP recipients to purchase hot prepared food in authorized restaurants.

In September 2021, CDSS expanded the RMP statewide with the implementation of AB 942 (Weber, Chapter 814, Statutes of 2019), with CDSS administering the RMP in counties that have chosen to opt-out of running the program locally. According to CDSS, in July 2021, there were 204,772 unique CalFresh clients making RMP purchases statewide. As of June 2022, there were 2,358 restaurants that are federally authorized to participate in California's RMP.

Great Plates Delivered. On April 24, 2020, Governor Newsom announced the launch of the Great Plates Delivered program, a first-in-the-nation emergency program to help seniors and other adults at high risk from COVID-19 to stay home and stay healthy by delivering three nutritious meals a day. The Great Plates Delivered program was established to serve older Californians who were ineligible for other nutrition programs, such as CalFresh, and earned less than 600% of the federal poverty limit. The Great Plates Delivered program enlisted community restaurants to prepare meals, which supported local restaurant workers and owners who had lost business during the pandemic.

The Great Plates Delivered program was managed jointly by the California Governor's Office of Emergency Services (Cal OES), the California Department of Aging, and the California Health and Human Services Agency. The program

received 75 percent Federal Emergency Management Agency reimbursement, and the remaining 25 percent was funded through state and local funds. The program was operational in 40 of the state's 58 counties, including Alameda County. According to Cal OES, the program delivered over 37 million meals to eligible participants across 41 local governments (10 Area Agencies on Aging, 10 counties, and 21 cities) and served over 55,000 older Californians. According to a report by the Berkeley Food Institute, estimated spending through March 2021 totaled $557 million.

Alameda County Emergency Food Vendor Program. In response to a rapid increase in residents' needs for food assistance during the COVID-19 crisis, Alameda County established the Emergency Food Vendor Program to deliver prepared meals to people experiencing homelessness, shut-in seniors, and COVID patients. The County funded the program using federal Coronavirus Aid, Relief, and Economic Security (CARES) Act and American Rescue Plan Act (ARPA) funds to pay for meals and delivery. According to the bill sponsors, the Emergency Food Vendor Program utilized a "meals plus" model, which linked meal recipients with other support services such as housing assistance agencies and health clinics. Alameda County's Emergency Food Vendor Program ended in 2021.

Comments

This bill seeks to make it easier for individuals who are unhoused to have access to food. The unhoused population may be unable to benefit from food or meal services due to lack of access to kitchen storage, cooking tools, or physical distance from soup kitchens or restaurants that participate in the RMP.

This bill would create the Prepared Meals Delivery Program at CDSS as a statewide version of Alameda County's Emergency Food Vendor Program. The bill specifies that Alameda County must participate, but does not specify whether other counties may participate in the program.

Related/Prior Legislation

AB 2100 (Carrillo, 2021) would have required CDSS to seek federal waivers to allow the CalFresh Restaurant Meal Program (RMP) to be expanded to serve all CalFresh recipients, not just adults aged 60 or older and their spouses, people with disabilities and their spouses, and people experiencing homelessness. This bill would also have expanded the eligible places a person could get food to include military commissaries and "locations within a grocery store where one can

purchase ready-to-eat foods." AB 2100 was held on the suspense file in the Senate Appropriations Committee.

AB 942 (Weber, Chapter 814, Statutes of 2019) required the CDSS to establish a statewide Restaurant Meals Program (RMP).

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

According to the Senate Appropriations Committee,

- "Unknown General Fund costs for providing meals, potentially millions, depending on the number of counties that participate in the program."
- "Unknown General Fund costs to the CDSS for state administration."
- "Costs to Alameda County for administration would be potentially reimbursable by the state, subject to a determination by the Commission on State Mandates."

SUPPORT:

Alameda County Board of Supervisors (source)
Alma Bar Cocina
Bhk/so Good & Delicious INC.
Boss Bay Area
County Welfare Directors Association of California
Homies Empowerment
Los Cocos Restaurante Salvadoreno
Mela Bistro Modern Ethiopian
Oakland; City of
Otaez Mexican Restaurant
People's Programs
Ratto's International Market and Deli
Sister to Sister 2, INC. Dba Serenity House
The East Oakland Collective
West Oakland Punks With Lunch
Willie's Kitchen
Xingones Restaurant

OPPOSITION:

None received

ASSEMBLY FLOOR: 61-10, 1/30/24
AYES: Aguiar-Curry, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Connolly, Mike Fong, Friedman, Gabriel, Garcia, Gipson, Grayson, Haney, Hart, Holden, Irwin, Jackson, Jones-Sawyer, Kalra, Lee, Low, Lowenthal, Maienschein, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Rendon, Reyes, Luz Rivas, Rodriguez, Blanca Rubio, Santiago, Schiavo, Soria, Ting, Valencia, Villapudua, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas
NOES: Alanis, Chen, Davies, Dixon, Essayli, Gallagher, Mathis, Sanchez, Ta, Wallis
NO VOTE RECORDED: Addis, Megan Dahle, Flora, Vince Fong, Hoover, Lackey, Jim Patterson, Joe Patterson, Waldron

Prepared by: Diana Dominguez / HUMAN S. / (916) 651-1524
8/16/24 12:47:26

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

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THIRD READING

Bill No: AB 1042
Author: Bauer-Kahan (D), et al.
Amended: 8/23/24 in Senate
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 4-2, 6/28/23
AYES: Allen, Gonzalez, Menjivar, Skinner
NOES: Dahle, Nguyen
NO VOTE RECORDED: Hurtado

SENATE AGRICULTURE COMMITTEE: 3-0, 6/18/24
AYES: Hurtado, Cortese, Padilla
NO VOTE RECORDED: Grove, Alvarado-Gil

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 4-0, 7/3/24
AYES: Allen, Gonzalez, Menjivar, Skinner
NO VOTE RECORDED: Dahle, Hurtado, Nguyen

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 53-19, 5/30/23 - See last page for vote

SUBJECT: Pesticide treated seed: labeling

SOURCE: American Bird Conservancy
Environment California
Natural Resources Defense Council

DIGEST: This bill, beginning January 1, 2027, requires the label for certain pesticide treated seeds to include the pesticide's registration number from the United States Environmental Protection Agency, if applicable, and the application rate by weight of seed, among other specified information.

Senate Floor Amendments of 8/23/24 clarify for seeds treated with substances subject to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), the label shall include, for each pesticide, the following information:

(1) The registration number from the United States Environmental Protection Agency, if applicable.
(2) The quantity applied by weight or amount per seed.

ANALYSIS:

Existing law:

1) Provides that California Department of Food and Agriculture (CDFA) Seed Advisory Board advises the Secretary of CDFA and makes recommendations on all matters pertaining to California Seed Law and seed inspection regulations, the enforcement program, and the program's budget (including the State Seed Laboratory). It is comprised of eleven members, nine members from the seed industry and two from the public. (Food and Agricultural Code, Section 52291).

2) Provides that Seed Services Program, administered statewide by CDFA's Pest Exclusion Branch, the Seed Services program is a third-party seed inspection program, verifying the accuracy and accessibility of seed label statements as to variety and type, purity, and germination. (Food and Agricultural Code Section 52288).

3) Provides that the California Department of Pesticide Regulation (DPR)'s mission is to protect human health and use of the environment by regulating pesticide sales and use and by fostering reduced-risk pest management.

4) States it is unlawful for any person to ship, deliver, transport, or sell agricultural or vegetable seed that is treated after harvest with any substance that is likely to be poisonous or toxic to human beings or animals unless there is conspicuously shown on the analysis tag or label, on a separate tag or label attached to each container, or upon each container all of the following information. (Food & Agricultural Code Section 52484):

   a) "TREATED SEED" and the signal word for the category of treatment material all in capital letters. The chemical or generic name of the treatment material.

   b) An appropriately worded statement as to the hazards to humans and animals.

   c) An appropriately worded statement of practical treatment, if present.

This bill:

1) States when more than one substance is applied, each substance shall be noted on the label and the seed shall be labeled with the signal word for the substance with the highest level of toxicity.

2) States, beginning January 1, 2027, for seeds treated with substances subject to the Federal Insecticide, Fungicide, and Rodenticide Act, the label shall include, for each pesticide, all of the following information:

   a) The registration number from the United States Environmental Protection Agency, if applicable.

   b) The registration number from the Department of Pesticide Regulation, if available.

   c) The application rate by weight of seed.

3) States this subdivision shall only apply to seeds shipped, delivered, transported, or sold for planting within the state.

4) States that the requirements of this section shall not apply to seeds packaged before January 1, 2027.

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

SUPPORT: (Verified 8/23/24)

American Bird Conservancy (co-source)
Environment California (co-source)
Natural Resources Defense Council (co-source)
California Association of Professional Scientists
Climate Reality San Francisco Bay Area Chapter
Solano County Democratic Central Committee

OPPOSITION: (Verified 8/23/24)

None received

ARGUMENTS IN SUPPORT: According to the author:

> "One would think that the Department of Pesticide Regulation would regulate all pesticide uses – this is however not the case. DPR does not protect Californians from the pesticides used to treat seeds. As a result, a

> huge volume of pesticide use in California may be completely unknown. The current lack of information regarding seed treatments negatively affects the availability of data on the environmental impact of these treatments. AB 1042 creates a more transparent process by requiring that the concentration of each treatment used on a seed is identified on the label."

A coalition letter from co-sponsors the American Bird Conservancy, Environment California, and the Natural Resources Defense Council wrote in support of the bill stating:

> "AB 1042 requires that key information for growers is easily available on state-regulated seed bag labels. The bill would require disclosure of the quantity of each pesticide or other chemical substance applied to the seed on the existing state-regulated label. This additional information would better inform growers, pest management professionals, and farmworkers as to the chemical content of treated seeds, allowing them to make the most informed decision on what treatments to use, compare efficacy of different treatments, better understand what precautions may need to be taken, and avoid making unnecessary or duplicative pesticide applications."

ASSEMBLY FLOOR: 53-19, 5/30/23
AYES: Addis, Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Connolly, Mike Fong, Friedman, Gabriel, Gipson, Grayson, Haney, Hart, Holden, Irwin, Jackson, Jones-Sawyer, Kalra, Lee, Low, Lowenthal, Maienschein, McCarty, McKinnor, Muratsuchi, Ortega, Papan, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Santiago, Schiavo, Ting, Ward, Weber, Wicks, Wilson, Wood, Zbur, Rendon
NOES: Alanis, Bains, Chen, Megan Dahle, Davies, Dixon, Essayli, Flora, Vince Fong, Gallagher, Hoover, Lackey, Mathis, Jim Patterson, Joe Patterson, Sanchez, Ta, Waldron, Wallis
NO VOTE RECORDED: Garcia, Stephanie Nguyen, Pacheco, Rodriguez, Blanca Rubio, Soria, Valencia, Villapudua

Prepared by: Reichel Everhart / AGRI. / (916) 651-1508
8/25/24 12:49:20

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

SENATE RULES COMMITTEE AB 1082
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THIRD READING

Bill No: AB 1082
Author: Kalra (D), et al.
Amended: 8/23/24 in Senate
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 10-3, 6/27/23
AYES: Gonzalez, Allen, Archuleta, Becker, Blakespear, Cortese, Dodd, Limón, McGuire, Wahab
NOES: Niello, Nguyen, Seyarto
NO VOTE RECORDED: Dahle, Newman, Umberg

SENATE PUBLIC SAFETY COMMITTEE: 3-1, 7/11/23
AYES: Bradford, Skinner, Wiener
NOES: Ochoa Bogh
NO VOTE RECORDED: Wahab

ASSEMBLY FLOOR: 47-14, 5/31/23 - See last page for vote

SUBJECT: Authority to remove vehicles

SOURCE: End Poverty in California
FreeFrom, Lawyers' Committee for Civil Rights
Western Center on Law and Poverty

DIGEST: This bill removes the authority of a peace officer or public employee to tow or immobilize a vehicle for having five or more unpaid parking or traffic tickets to only apply to higher education institutions. This bill also reforms requirements on processing agencies to offer payment plans for parking tickets in order to use the Department of Motor Vehicles for collection purposes. This bill authorizes issuing agencies for parking violations to reduce or waive parking penalties if they determine the violator is unable to pay the entire amount.

Senate Floor Amendments of 8/23/2024 make technical clarifying changes and address chaptering conflicts with AB 1978.

ANALYSIS:

Existing law:

1) Authorizes a peace officer or other traffic enforcer of a local jurisdiction to remove or immobilize a vehicle if it has five or more unpaid parking or traffic tickets. (Vehicle Coded Section (VEH) §22651 and §22651.7)

2) Authorizes law enforcement officers to remove a vehicle if they are unable to release the vehicle to the registered owner or a driver authorized by that owner after a traffic stop or a sobriety checkpoint. (VEH §2810.2 and §2814.2)

3) Authorizes a peace officer or other traffic enforcer of a local jurisdiction to remove a vehicle in many circumstances, including if a vehicle is parked on the highway so as to obstruct traffic or creates a hazard. (VEH §22651)

4) Authorizes the impounding of vehicles for unpaid traffic or parking tickets until the owner provides proof of payment of the tickets and authorizes the lien sale of impounded vehicles should payments not be made in a specified time. (VEH §22651)

5) Authorizes the Department of Motor Vehicles (DMV) to refuse to renew the registration of a vehicle if the owner or lessee has not paid parking penalties and administrative fees (VEH §47600)

6) Provides several options to processing agencies collecting unpaid parking tickets, including filing an itemization of unpaid parking penalties and service fees with the DMV for collection with registration, so long as the agency provides options to indigent persons including a payment plan with $25 monthly installments, waiving late fees and penalty assessments, and limiting processing fees (VEH §40220)

7) Defines “indigent” for the purposes of this payment program to mean anyone who meets the income requirements for, or is currently on, Supplemental Security Income, Supplemental nutrition Assistance Program, Medi-Cal, or In Home Support Services.

8) Requires processing agencies to rescind a filing of itemization of penalties and fees for an indigent person for one time only, if they enroll in a payment plan

and pay a late fee of no more than $5.

9) Requires processing agencies to allow a registered owner or lessee who falls out of compliance with a payment plan a one-time extension of 45 days from the date the plan becomes delinquent to resume payments before filing an itemization of unpaid penalties and service fees with the DMV.

10) Authorizes an issuing agency or officer to cancel the notice of parking violation within 21 days after the notice is attached to the vehicle, if they determine doing so would be in the interest of justice.

11) Allows parking penalties to be paid in installments in an issuing agency determines that the violator is unable to pay the entire amount in one payment. (VEH §40203.5)

12) Authorizes issuing agencies to, consistent with their written guidelines, allow the payment of parking penalties in installments if the violator provides evidence satisfactory to the agency of an inability to pay the parking penalty in full. (VEH §40204)

This bill:

1) Defines, for the purposes of this legislation, "low-income" to mean a person who has a monthly income 300 percent or less of the current poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services.

2) Removes the authority a peace officer or other traffic enforcer to remove or immobilize vehicles due to having five or more parking or traffic violations.

3) Removes related authorizations regarding notice requirements and lien sales related to vehicles impounded for unpaid parking. Allows all local authorities to conduct lien sales of vehicles by impounded prior to January 1, 2025.

4) Modifies the requirements for processing agencies to be able to use the DMV for collection purposes requiring the agencies to:

    a) Eliminate the current $500 cap on the total amount of unpaid penalties the agency must offer installment payment plans to low-income persons;

b) Provide a process to waive an unpaid parking penalty or related fee for a vehicle if the registered owner is low-income and was in custody when the penalty was pending;
c) Offer a payment plan option for non-low-income persons that allows payment of an unpaid parking penalty and related fees in monthly installments over at least 12 months;
d) Allow for automatic payments in the payment plans;
e) Set no deadline following issuance of a parking ticket to request to participate in the payment plan.
f) Mail courtesy warnings sixty days prior to filing itemization with the DMV for collection. This warning shall include information about the availability of payment plans and a website link and telephone number that provides more information about the plans;
g) Provide on its website information on the availability and eligibility requirements of payment plans, how to request an indigency determination, and how to request a waiver of unpaid parking penalties;

5) Requires processing agencies to allow a low-income person who falls out of compliance with a payment plan at least four extensions of 45 days to resume payments before filing an itemization of unpaid penalties with the DMV.

6) Requires processing agencies to rescind the filing of an itemization of unpaid parking penalties and related fees an unlimited number of times if the registered owner or lessee enrolls in a payment plan and pays a late fee of at most $5.

13) Authorizes an issuing agency or officer to cancel the notice of parking violation if they determine doing so would be in the interest of justice, regardless of when after the notice is attached to the vehicle.

14) Allows parking penalties to be reduced or waived if the issuing agency determines that the violator is unable to pay the entire amount in one payment.

15) Allows issuing agencies to reduce or waive parking penalties if the violator provides evidence satisfactory to the issuing agency of an inability to pay the parking penalty in full.

16) Includes provisions to prevent chaptering conflicts with AB 1978.

Comments

1) *Purpose of bill.* According to the author, "California has been a national leader in ending policies that disproportionately punish people experiencing poverty, recognizing that these laws do not make individuals more likely to pay but instead trap them in debt and create barriers to financial stability. Vehicle tows and immobilizations result in snowballing consequences that threaten people's stability and well-being, as well as undermine our state's economic equity goals. AB 1082 will help cities actually collect unpaid ticket fees and allow California to continue leading the way in ending poverty tows so that working families can continue to drive to work, pay their rent and bills, and provide for their families."

2) *Paying for parking.* In dense, urban environments, space is one of the most valuable resources. In order to support a transportation system largely designed for cars, cities have traditionally tried to devote a significant portion of space to parking. Giving the high value of this space, cities need mechanisms to make sure those spaces are being used effectively. Cities will often meter valuable spaces in order to incentivize shorter trips and discourage congestion. Illegal on-street parking can increase travel time and congestion. Cities use parking tickets today to reduce congestion in downtown areas, ensure local residents have a place to park, enable people to park near retail stores for a limited period of time, to prevent individuals from parking in spaces for emergency vehicles, keep open spots for people with disabilities, and ensure that non electric vehicles are not parking in spots meant for electric vehicles to charge.

3) *Parking enforcement.* If a vehicle consistently violates parking laws California law authorizes local enforcers to immobilize, tow, or eventually impound the vehicle. If the vehicle remains unclaimed and no payment plan is entered into local agencies may perform a lien sale to recoup costs of towing and storing. If a vehicle is not removed but has outstanding parking violations an authority may also use the DMV to collect the delinquent penalties at the time of the vehicles next registration. In order to do this the authority must comply with several rules regarding offering payment plan options for the penalties, including options for indigent people that carry no late fees. According to the DMV there are currently 692 parking agencies that may report tickets to DMV for collection with the annual registration renewal. Using a 5-year average, DMV estimates it has received approximately 1.8 million parking tickets annually. Approximately 30-40% of the parking tickets reported to DMV

annually are collected by DMV during the registration renewal, as people may instead pay the parking agency directly. The DMV collected approximately $81.7 million in total parking citation bail in FY 2021/22.

Research shows that removal and impoundment of a vehicle is an effective deterrent to illegal behavior. According to the Center for Disease Control, several studies indicate that impounding a vehicle reduces rates of recidivism for driving under the influence. By removing local parking agencies' ability to tow or immobilize a vehicle, this bill limits local jurisdictions' ability to effectively manage valuable parking space. In particular, this bill will make it impossible to enforce payment of tickets on out-of-state vehicles.

However, while removal and impoundment may be effective deterrents they often can be costly. Owners are more likely to abandon vehicles with a lower resale value so towing and storage fees can be greater than the city can recoup through a lien sale. According to the Auditor of the City of San Diego, found the city's towing program cost the city about $1.5 million dollars a year. They also found that 27 percent of all tows resulted in a lien sale, leading to unrecoverable costs.

4) *Towed into debt: How Towing Practices in California Punish Poor People.* A report published in 2019 by 17 legal services, public interest law, and public policy and advocacy groups notes how California's cities attempts to regulate parking have resulted in disproportionate punishments for low income individuals. Based on an analysis of eight California cities, the report estimated that one fourth of all tows conducted are because the owner had unpaid parking or traffic tickets, lapsed registration, or for being parked in one place for 72 hours. Vehicles towed for these reasons are 2 to 6 times more likely to be sold at a lien sale than the average towed cars. The report noted that 50% of the vehicles towed in San Francisco for unpaid parking tickets and 57% of the vehicles towed for lapsed registration were sold by the tow companies, compared to only 9% of other vehicles that were towed for other reasons.

   Recovering a vehicle after it has been towed is expensive. *Towed into Debt* notes that the average tow fee in California at the time the report was published was $189, with a $53 storage fee per day and a $150 administrative fee. After three days of storage, a towing fee could come out to $499. For low-income individuals, fees accumulating on top of one another can create a cycle of debt where they are unable to pay back parking fines, and then receive additional fines for driving an unregistered vehicle and an increased vehicle registration

fee for late payments. If their vehicle is then towed and impounded they likely will not be able to recover their vehicle, which may serve as their home or as an important resource for pursuing a job.

In recognition that these rates have the greatest negative impact on low-income individuals, some localities have considered payment alternatives. For example, the City of San Francisco in 2018 implemented a payment installment plan and certain fee waivers for qualified low-income individuals. The Legislature has also taken action. In 2015, SB 405 (Hertzberg, Chapter 385, Statutes of 2015) eliminated the requirement to pay all penalties and fines for certain traffic violations up front and allowed an individual to schedule a court hearing prior to payment. In 2017, AB 503, Lackey, (Chapter 741, Statutes of 2017) gave indigent persons the opportunity to pay down unpaid parking citations through an installment plan.

5) *Payment plans with no cap*. Currently if an authority wishes to use the DMV to collect delinquent parking fees they must offer a payment plan total penalties up to $500 for indigent persons in monthly installments of no more than $25 over a period of 24 months. This bill would expand the requirement to offer a payment plan to all individuals and expands the income threshold to qualify for low-income payment plans. For low-income people this bill would remove the $500 cap the payment plan must apply to, but retain the requirement of $25 monthly installments over a maximum of 24 months. In effect, this will cap the amount of fees a processing agency can claim from a low-income person at $600 – twenty-four payments of $25.

   For any low-income person this is a substantial sum, likely to disincentive receiving so many tickets. However, the cost of parking can be quite expensive in major cities. For example, parking meters in downtown San Francisco generally range from $2-$6 an hour and offer daily maximum rates of $29. If fortunate someone may be able to find a cheaper lot – a quick internet search provides options as around $340 a month, making the cost of paying for parking in the city for two months $680. Under the provisions of this bill, the maximum fees that could be collected for parking tickets from an indigent person would be $600, making it cheaper to accrue tickets than pay for parking.

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

According to the Senate Appropriations Committee, "Unknown, potentially significant reduction in state and local parking citation revenues related to the

expansion of eligibility for a waiver of all late fees and penalty assessments for low-income persons with monthly income 300% or less of the federal poverty level (rather than 200%) that enter into payment plans. Revenue reductions could be partially mitigated by some revenue gains for partial payments on debt that may not have otherwise been paid. To the extent the bill removes towing and immobilization of a vehicle as a deterrent and collection tool for delinquent tickets, there would be additional state and local revenue losses. (local funds, State University Parking Revenue Fund, other funds administered by state institutions of higher education)"

SUPPORT: (Verified 8/16/24)

ACLU California Action
All Home
Alliance for Boys and Men of Color
Asian Americans Advancing Justice-southern California
Bay Area Legal Aid
California for Safety and Justice
California Partnership to End Domestic Violence
Center for Responsible Lending
Communities United for Restorative Youth Justice
Community Legal Services in East Palo Alto
Courage California
East Bay Community Law Center
End Poverty in California
Equal Rights Advocates
Family Violence Appellate Project
Freefrom
Friends Committee on Legislation of California
Futures Without Violence
Housing and Economic Rights Advocates
Housing California
Indivisible CA Statestrong
Lawyers' Committee for Civil Rights of The San Francisco Bay Area
Legal Aid Foundation of Los Angeles
Legal Aid of Marin
National Lawyers Guild San Francisco Bay Area Chapter
Neighborhood Legal Services of Los Angeles County
Public Counsel
Sister Warriors Freedom Coalition
Smart Justice California

Techequity Collaborative
Voices for Progress Education Fund
Western Center on Law & Poverty, INC.
Women's Foundation California

OPPOSITION: (Verified 8/16/24)

California Downtown Association
California Mobility and Parking Association
California Police Chiefs Association
California State Sheriffs' Association
City of Anaheim
City of Chino Hills
City of Newport Beach
City of Oceanside
City of Pasadena
City of Santa Monica
Peace Officers Research Association of California

ARGUMENTS IN SUPPORT: According to the End Poverty in California, co-sponsors of the bill "Every year in California, tens of thousands of drivers get their cars towed because they can't afford to pay their parking tickets. For low income and working households, the towing of a vehicle is often catastrophic. For many, a tow means total loss of their car because the tow and ticket fees are more than they can afford - and often more than what their car is worth. When people lose their cars, they often lose their biggest personal asset, their ability to get to work, and their ability to meet their basic needs like grocery shopping, taking children to school, or going to medical appointments. AB 1082 will prohibit towing or immobilizing a vehicle due to unpaid parking tickets, increase the number of unpaid tickets from one to eight before the DMV can place a registration hold, and improve the guidelines for parking ticket payment programs. These changes together will help cities actually collect unpaid ticket fees and help working families continue to drive to work, pay their rent and bills, and provide for their families. Moreover, by deprioritizing the enforcement of "quality of life" crimes that make it harder for individuals and families to get ahead, we believe that we can help increase low-income families' financial stability"

ARGUMENTS IN OPPOSITION: According to the California Mobility and Parking Association, "Assembly Bill 1082 would eliminate a number of parking enforcement programs' methods to gain compliance in order to effectively manage our curb space throughout our jurisdictions. It would eliminate our ability to

immobilize or impound vehicles with five or more past due citations, and prohibit the DMV from holding a vehicle's registration unless the vehicle had 8 or more unpaid parking violations. The proposed legislation also would extend the starting eligibility for a vehicle with an expired registration to be impounded from 6 months to 1 year. Additionally, the legislation would make a host of changes to the established state mandated indigent payment plan program, including removing the deadline to apply for a payment plan, reducing penalties, allowing violators at least 4 extensions if they fall out of compliance, and requiring a payment plan option for individuals who do not qualify as indigent."

ASSEMBLY FLOOR: 47-14, 5/31/23
AYES: Addis, Aguiar-Curry, Alvarez, Arambula, Bains, Berman, Boerner, Bonta, Bryan, Juan Carrillo, Wendy Carrillo, Cervantes, Connolly, Mike Fong, Friedman, Gabriel, Garcia, Gipson, Haney, Hart, Holden, Irwin, Jackson, Jones-Sawyer, Kalra, Lee, Low, Lowenthal, McCarty, McKinnor, Stephanie Nguyen, Ortega, Papan, Pellerin, Reyes, Luz Rivas, Robert Rivas, Santiago, Schiavo, Ting, Villapudua, Ward, Weber, Wicks, Wilson, Zbur, Rendon
NOES: Alanis, Chen, Megan Dahle, Davies, Dixon, Essayli, Flora, Vince Fong, Gallagher, Mathis, Jim Patterson, Joe Patterson, Sanchez, Waldron
NO VOTE RECORDED: Bauer-Kahan, Bennett, Calderon, Grayson, Hoover, Lackey, Maienschein, Muratsuchi, Pacheco, Petrie-Norris, Quirk-Silva, Ramos, Rodriguez, Blanca Rubio, Soria, Ta, Valencia, Wallis, Wood

Prepared by: Jacob O'Connor / TRANS. / (916) 651-4121
8/25/24 12:49:22

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

SENATE RULES COMMITTEE
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THIRD READING

Bill No: AB 1113
Author: McCarty (D), et al.
Amended: 8/27/24 in Senate
Vote: 21

SENATE EDUCATION COMMITTEE: 7-0, 7/12/23
AYES: Newman, Ochoa Bogh, Cortese, Glazer, McGuire, Smallwood-Cuevas, Wilk

SENATE APPROPRIATIONS COMMITTEE: 7-0, 9/1/23
AYES: Portantino, Jones, Ashby, Bradford, Seyarto, Wahab, Wiener

ASSEMBLY FLOOR: 80-0, 5/30/23 - See last page for vote

SUBJECT: California Longitudinal Pupil Achievement Data System: expanded learning opportunity programs

SOURCE: California Afterschool Advocacy Alliance
Partnership for Children & Youth

DIGEST: This bill requires the California Department of Education (CDE), beginning the 2025-26 school year, to (1) define and collect as part of the California Longitudinal Pupil Achievement Data System (CALPADS), annual pupil enrollment data for each pupil enrolled in any an expanded learning opportunity program, as specified; and (2) to identify and reduce data reporting redundancies, and provide guidance and recommendations to local educational agencies (LEA), in the collection of pupil data, including, but not limited to, pupil participation, for each pupil enrolled in an expanded learning opportunity program

Senate Floor Amendment of 8/27/24 requires the CDE, beginning the 2025-26 school year, to (1) define and collect as part of the CALPADS, annual pupil enrollment data for each pupil enrolled in any an expanded learning opportunity program, as specified; and (2) to identify and reduce data reporting redundancies, and provide guidance and recommendations to LEAs, in the collection of pupil

data, including, but not limited to, pupil participation, for each pupil enrolled in an expanded learning opportunity program, and strikes education code section 8482.55, 8484.7, and 8484.8 reverting those sections back to existing law.

ANALYSIS:

Existing law:

1) Commencing with the 2022–23 school year, as a condition of receipt of funds allocated, all local educational agencies shall offer to all pupils in classroom-based instructional programs in kindergarten and grades 1 to 6, inclusive, access to ELOP, and shall ensure that access is provided to any pupil whose parent or guardian requests their placement in a program. (Education Code (EC) § 46120 (b)(1))

2) Local educational agencies operating ELOPs pursuant to this section may operate a before-school component of a program, an after-school component of a program, or both the before and after-school components of a program, on one or multiple schoolsites in compliance with the educational literacy and enrichment element; meals; and eligible schools/entities as specified in the ASES (EC 4612 § (b)(2))

3) Local educational agencies may serve all pupils, including elementary, middle, and secondary school pupils, in expanded learning opportunity programs. (EC § 46120 (b)(4))

4) This section does not limit parent choice in choosing a care provider or program for their child outside the required instructional minutes provided during a school day. Pupil participation in an expanded learning opportunities program is optional. Children eligible for an expanded learning opportunities program may participate in and generate reimbursement for other state or federally-subsidized childcare programs, pursuant to the statutes regulating those programs. (EC 46120 (b)(7)

5) The ASES program shall be established to serve pupils in kindergarten and grades 1 to 9, inclusive, at participating public elementary, middle, junior high, and charter schools. (EC § 8482.3(a))

6) A program may operate a before-school component program, an after-school component, or both in one or multiple schoolsites and requires each component to include an educational and literacy element (in which tutoring

or homework assistance is provided) and an educational enrichment element (such as fine arts, career technical education (CTE), recreation, physical fitness, and prevention activities). If a program operates at multiple schoolsites, only one application shall be required for its establishment, and require each component to consist of these two elements:

a) An educational and literacy element in which tutoring or homework assistance is provided in one or more of the following areas: language arts, mathematics, history and social science, computer training, or science.

b) An educational enrichment element that may include, but need not be limited to, fine arts, career technical education, recreation, physical fitness, and prevention activities. (EC § 8482.3 (b) & (c))

7) The purpose of this part is to provide opportunities for communities to establish or expand activities in community learning centers that provide opportunities for academic enrichment, offer students a broad array of additional services, programs, and activities, and offer families of students served by community learning centers opportunities for active and meaningful engagement in their children's education. (20 United States Code (U.S.C.) § 7171 (a)(1) – (3))

8) The term ''eligible entity'' means a local educational agency, community-based organization, Indian tribe, or tribal organization (as such terms are defined in section 4 of the Indian Self-Determination and Education Act (25 U.S.C. 450b)), another public or private entity, or a consortium of 2 or more such agencies, organizations, or entities. (20 U.S.C. § 7171 (b)(3))

9) In awarding subgrants under this part, a State educational agency shall give priority to applications proposing to target services to students who primarily attend schools that perform the following:

a) Implement comprehensive support and improvement activities or targeted support and improvement activities for students and families of those students as specified.

b) Enroll students who may be at risk for academic failure, dropping out of school, involvement in criminal or delinquent activities, or who lack strong positive role models. (20 U.S.C. § 6311 (c))

This bill:

1) Requires the CDE, beginning the 2025-26 school year, to:

   a) Define and collect as part of the CALPADS, annual pupil enrollment data for each pupil enrolled in any an expanded learning opportunity program, as specified; and

   b) Identify and reduce data reporting redundancies, and provide guidance and recommendations to LEAs, in the collection of pupil data, including, but not limited to, pupil participation, for each pupil enrolled in an expanded learning opportunity program.

Comments

1) *Need for a bill.* According to the author, "High quality afterschool and summer programs provide safe and engaging places that promote physical, social, emotional, and academic growth for students of all ages. However, the vast majority of funding is directed toward young students, leaving few resources for middle and high school age students. This bill increases equity by ensuring all California students, TK through 12, have an enriching place after school where they can develop skills and relationships that will help them succeed in school, career, and life."

2) *The Importance of After School Programs.* According to the Afterschool Alliance, "Quality afterschool programs understand that children and youth in different age groups vary in academic, psychological, and physical activity needs. Consistent participation in afterschool programs has shown lower dropout rates and has helped close achievement gaps for low-income students. Regularly participating in an afterschool program may also reduce risky behaviors and help older youth gain college and career-needed skills. Afterschool programming has been shown to improve social and academic outcomes for students. However, research points to certain key elements for success. To fully realize all the positives of afterschool programming, students must receive a regular dosage, adequately trained staff, and high-quality programming." CDE's *2017 After School Programs Report* finds that high-quality after-school and other expanded learning programs (ELPs) that purposely provide academic and developmentally enriching services have positively impacted a wide range of student outcomes, including the following:

   - School attendance and academic motivation.

- Academic work habits, homework completion, English language development, and academic achievement (e.g., student grades and test scores)

- Social-emotional development, behavior, and discipline.

3) *The After School Education and Safety Program.* ASES, established in 2002 via Proposition 49 (Prop 49), provides $550 million annually for before and after-school programs for kindergarten – 9th grade. The 2017-18 Budget Act (AB 97 (Ting); Chapter 14, Statues of 2017) increased ongoing funding to the ASES program by $50 million for $600 million. In 2021-22 (AB 130 (Committee on Budget); Chapter 44, Statues of 2021), ASES programs received $650 million in state funds. In addition, one-time federal COVID relief funding supports temporary rate increases and additional slots. These funds will temporarily increase the ASES per student daily rate from $8.88 to $10.18 in 2021-22 and 2022-23. According to the California Afterschool Advocacy Alliance, ASES programs serve more than 400,000 students at 4,200 schools daily.

   ASES aims to create incentives for establishing locally driven ELP, including after-school programs that partner with public schools and communities to provide academic and literacy support and safe, constructive alternatives for youth. The ASES involves collaboration among parents, youth, school representatives, governmental agencies, individuals from community-based organizations, and the private sector.

4) *Early Learning Opportunities Program (ELOP). ELOP* (AB 130; Chapter 44, Statues of 2021) is state-level funding unique to California and applies to grades kindergarten through 6 (K-6). It is intended specifically to create and/or support programs that do not replicate learning activities in the regular school day and school year. ELOP is available for all school districts in California, including charter schools and frontier and remote classified schools. In fact, LEAs cannot opt for ELOP. ELOP funding can be used for a wide range of afterschool, before-school, intersession, summer, and other enrichment programs outside of the regular school day. Further, ELOP allows for blended and braided funding, allowing LEAs to braid and blend their 21st CLCC and ASES funding. In the 2021-22 fiscal year, the state provided $1.8 billion in Proposition 98 funding to establish this program, to reach $5 billion annually by 2025-26. In the 2022-23 fiscal year, the state increased total

available funding for expanded learning for grades K-6 in California is now at a record high of $4 billion annually.

Can ELOP Be Used To Fund Middle and High School After School Programs? ELOP can be used to fund afterschool programs in elementary, middle, and secondary schools (EC 46120 (b)(4)). However, grades K-6 must be prioritized before serving pupils in middle and high school. (EC 46120 (a))

5) *CDE: California Longitudinal Pupil Achievement Data System (CALPADS).* CALPADS provides LEAs with access to longitudinal data and reports on their students. It gives LEAs immediate access to information on new students, enabling the LEAs to place students appropriately and determine whether any assessments are necessary. To meet the requirements of LEAs shall retain and report to CALPADS individual pupil and staff records, including:

   a) Statewide Student Identifier data;

   b) Student enrollment and exit data;

   c) All necessary data to produce required graduation and dropout rates;

   d) Demographic data;

   e) Data necessary to comply with the No Child Left Behind Act of 2001; and

   f) Other data elements deemed necessary by the Superintendent of Public Instruction (SPI), with approval of the State Board of Education (SBE), to comply with the federal reporting requirements delineated in the No Child Left Behind Act of 2001 and after review and comment by the convened advisory board.

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

According to the Senate Appropriations Committee, "The bill's priorities for the allocation of funds for ASES and the 21st CCLC program could potentially result in the redistribution of existing program funds depending on whether the various grade levels are receiving the prescribed percentage of funds. Specifically, there could be federal fund shifts of approximately $20 million to provide at least 60% (rather than at least 50%) of 21st CCLC program funding to high schools programs, beginning in the 2024-25 fiscal year. The CDE estimates one-time General Fund

costs of $183,000 in the first year of implementation, and ongoing General Fund costs of $941,000 each year for 5.5 positions to comply with the bill's data collection and California Longitudinal Pupil Achievement Data System (CALPADS) requirement for students participating in the ELOP."

SUPPORT: (Verified 8/27/24)

California Afterschool Advocacy Alliance (Co-Source)
Partnership for Children & Youth (Co-Source)
A World Fit for Kids
After-School All-stars, Los Angeles
ARC
Bay Area Community Resources
California Alliance of Boys & Girls Clubs
California Conservation Corps Foundation
California High School Coalition
California High Schools Coalition
California School-Age Consortium
California Teaching Fellows Foundation
Californians for Justice
Catholic Charities of Santa Clara County
Children Now
Children's Defense Fund - CA
Clare Rose Center for Creative Youth Development
Council for A Strong America
Culture Thrive
EduCare Foundation
Edventure More
EdVoice
Envisioneers
Fight Crime: Invest in Kids
Generation Up
GSPN
Heart of Los Angeles
Innovate Public Schools
LA's Best After School Enrichment Program
Linked Learning Alliance
Los Angeles Conservation Corps
Mission: Readiness
Para Los Ninos
Parent Institute for Quality Education
Parent Organization Network

Public Advocates
ReadyNation
Sacramento Chinese Community Service Center
San Diego Regional Arts and Culture Coalition
San Mateo County Child Care Partnership Council
STAR Education
Team Prime Time
The Children's Initiative
Think Together
Woodcraft Rangers
YMCA of San Diego County

OPPOSITION: (Verified 8/27/24)

None received

ASSEMBLY FLOOR: 80-0, 5/30/23
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Chen, Connolly, Megan Dahle, Davies, Dixon, Essayli, Flora, Mike Fong, Vince Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, Mathis, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Rendon

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8/28/24 23:30:25

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

SENATE RULES COMMITTEE
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THIRD READING

Bill No: AB 1205
Author: Bauer-Kahan (D), et al.
Amended: 8/28/24 in Senate
Vote: 21

PRIOR VOTES NOT RELEVANT

PURSUANT TO SR 29.10

SENATE EDUCATION COMMITTEE: 5-0, 8/29/24
AYES: Newman, Cortese, Glazer, Smallwood-Cuevas, Wilk
NO VOTE RECORDED: Ochoa Bogh, Gonzalez

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/30/24
AYES: Caballero, Jones, Ashby, Becker, Bradford, Seyarto, Wahab

SUBJECT: California State University students: California Promise: Finish in Four and Through in Two

SOURCE: Author

DIGEST: This bill renames the California Promise Program established at the California State University (CSU) as the Finish in Four and Through in Two program. The bill further requires CSU campuses to promote the program and establishes an annual reporting requirement. Lastly, the bill eliminates the program's January 1, 2026, sunset date, thereby extending the program indefinitely at CSU campuses.

ANALYSIS:

Existing law:

1) Establishes the California Promise program for the purposes of supporting CSU students in earning a baccalaureate degree within four academic years of the

student's first year of enrollment, or for transfer students, within two academic years of the student's first year of enrollment to the campus.

2) Requires the Trustees of the CSU to:

   a) Develop and implement a California Promise program, beginning the 2017-18 academic year, at a minimum of eight campuses for non-transfer students and a minimum of 15 campuses (20 campuses by 2018-19) for qualifying transfer students. These campuses enter into a pledge with a first-time freshman or with a qualifying transfer student to support the student in obtaining a baccalaureate degree within a total of four academic years.

   b) Submit a report to Legislative policy and fiscal committees by January 1, 2021 that includes the number of students participating in the program in total, the total number of students who graduated in four academic years for students who entered as first-time freshmen and two academic years for California Community College transfer students, and a summary description of significant differences in the implementation of the California Promise program at each campus.

   c) Submit recommendations to the appropriate policy and fiscal committees of the Legislature, by March 15, 2017, regarding potential financial incentives that could benefit students who participate in the California Promise program.

3) Requires support provided by a CSU campus for a California Promise program student to include, but not necessarily be limited to, both of the following:

   a) Priority registration in coursework provided that a student does not qualify for priority registration under another policy or program, as specified.

   b) Academic advisement that includes monitoring academic progress.

4) Requires a student, in order to qualify for the program to:

   a) Be a California resident for purposes of in-state tuition eligibility.

   b) Commit to completing at least 30 semester units or the quarter equivalent per academic year, including summer term units, as specified.

5) Requires a campus to guarantee participation in the program to, at a minimum, any student who is a low-income student, as defined, a student who has graduated from a high school located in a community that is underrepresented in college attendance, a first-generation college student, or a transfer student who successfully completes his or her associate degree for transfer at a community college.

6) Establishes that, as a condition of continued participation in a California Promise program, a student may be required to demonstrate both of the following:

   a) Completion of at least 30 semester units, or the quarter equivalent, in each prior academic year.

   b) Attainment of a grade point average in excess of a standard established by the campus.

7) Sunsets the program on January 1, 2026. (Education Code § 67430 et. seq.)

This bill:

1) Renames the California Promise program established at the CSU as the Finish in Four and Through in Two program.

2) Requires each campus participating in the Finish in Four and Through in Two program:

   a) Share information about the program at new student orientation.

   b) Provide information about the program during the online course registration process.

   c) Provide information about the program through an annual email to all students.

   d) Post information about the program in an easily identifiable and accessible place on the campus internet website.

   e) Post information about the program at advising offices.

3) Requires the CSU Trustees, by July 1, 2025, and annually thereafter, until January 1, 2034, to submit a report to the Legislature that includes all of the following information:

   a) The program participation rate, as a percentage, and the number of students per campus.

   b) Program participation demographics, including all of the following:

      i) Student race and ethnicity.

      ii) Whether the student is a federal Pell Grant recipient.

      iii) Whether the student is a first-generation college student.

      iv) Whether the student entered as a first-time freshman or transfer student.

   c) The amount of graduation initiative funds received and used per campus.

4) Eliminates the January 1, 2026 sunset date, effectively extending the program indefinitely.

5) Makes technical and conforming changes.

Comments

1) *Need for the bill.* According to the author, "Today, the CSU awards nearly half of California's bachelor's degrees and more than half of the CSU students are students of color. While system-wide graduation rates have steadily improved over the past five years, more must be done to increase rates of California students receiving their bachelor's degrees within four years of cumulative study. The system continues to struggle with graduation gaps for underrepresented students, and the system's graduation rates still lag behind those of similar universities nationwide. This bill will ensure the vital supports of the California Promise Program continue for future cohorts of CSU students and indefinitely extends the program's goals of eliminating longstanding opportunity and achievement gaps between low-income or first-generation students and their peers. Improving education outcomes for young adults in California is essential to generate upward economic mobility and ensure a prosperous state."

2) *California Promise pledge*. Existing law, established by Senate Bill 412 (Glazer, Chapter 436, Statutes of 2016), requires that the CSU Trustees develop and implement California Promise programs on at least 8 campuses for non-transfer students and at least 20 campuses for qualifying transfer students. Each participating campus commits to helping participating students finish their baccalaureate degree in four academic years, or two for transfer students. Students who commit to either the four-year or two-year pledge with the campus receive priority registration and routine and comprehensive academic advice. California Promise students self-select into the program and must complete 30 units per academic year and maintain minimum grade point average requirements. Participation is guaranteed for students who are low-income, graduated from a local high school, transferred from a community college or, are first-generation. Not all CSU majors are eligible for this program due to the curriculum and required units, and students must meet pledge requirements to remain in the program.

3) *Promise program participation and graduation rates.* According to CSU's 2021 report to the legislature on the program, participation grew from 2017, with 16 campuses offering a four-year pledge plan and 22 campuses offering a two-year pledge plan. From 2017 to 2021, more than 30,000 CSU students participated in some variation of the four- or two-year pledge. Of those, more than 13,000 were among the first in their family to attend college. Data from the CSU 2021 report shows that 64 percent of community college transfer students who engaged in the two-year pledge were able to graduate within two years. This figure is significantly higher than that of the system as a whole at that time. The higher graduation rates also hold across student groups by first-generation status, Pell status, and race/ethnicity. Four-year graduation rates for first-time students were unavailable at the time the report was prepared. There is no obligation to provide a report on the Promise program beyond 2021. This bill requires the submission of an annual report on student participation in the program and makes the program permanent.

4) *Other systemwide effort to promote timely degree completion at CSU.* To address low graduation rates, CSU launched "Graduation Initiative (GI) 2025" in 2015. By 2025, CSU aims to boost the six- and four-year graduation rates for first-time freshmen to 70 percent and 40 percent, respectively, as well as the graduation rates for student transfers to 45 percent (two-year rate) and 85 percent (four-year rate). It also intends to close achievement gaps by decreasing graduation rate disparities across various student groups, particularly low-

income and first-generation students. Over the last five years, the state has made significant investments; because of these investments, CSU reports that it has achieved all-time highs in graduation rates for first-time students and for transfer students and is on track to meet the GI 2025 goals. Currently, the systemwide four-year graduation rate is 33 percent (historically below 20 percent) for first-time students, and the two-year graduation rate is 44 percent (historically below 30 percent) for transfer students. Campuses may employ their own strategies to achieve goals, which include hiring faculty, adding more course sections, hiring academic advisors, and investing in student support programs and services. A campus may use California Promise to fulfill GI objectives, but it is not currently required. This bill requires CSU campuses to report annually the amount of graduation initiative funds received and used per campus.

5) *Addressing achievement gaps*. Despite the increases in graduation rates for first-time and transfer students, the GI has struggled to meet its goals to close equity gaps for underrepresented students. In response, the CSU convened an advisory committee in 2021 to address these remaining gaps. The advisory committee submitted a report in July 2021 with a set of recommendations and strategic imperatives to address equity gaps, and the CSU subsequently adopted five recommendations and will dedicate resources to these efforts:

   - Reengage and reenroll underserved students, such as students of color, Pell Grant recipients, and first-generation students.

   - Expand credit opportunities during the summer or intersession.

   - Ensure "equitable access" to digital degree planners that help students navigate the registration process, select core courses, and stay on track for timely graduation.

   - Eliminate administrative barriers to graduation, such as fee assessments, registration holds, and cumbersome processes.

   - Promote "equitable learning practices" and reduce non-passing (D-F-Withdraw) rates by providing opportunities for additional learning when needed.

The California Promise program is not mentioned among the adopted strategies, but it continues to remain an option for campuses and has demonstrated positive

outcomes for underrepresented groups. As described in the California Promise report of 2021, students from priority groups, including first-generation and low-income students, are well-represented among California Promise participants, and there is evidence of reduced time-to-degree across groups based on the initial cohorts of transfer students who participated in California Promise.

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

According to the Senate Appropriations Committee analysis, this bill would have the following fiscal impact:

- The bill's removal of the sunset date would result in the continued administrative costs necessary to administer the Promise Program at CSU campuses, thereby eliminating the possibility of savings if the program were to expire. The CSU is unsure of the systemwide costs of the program, so the extent of the forgone savings is unknown and would likely vary by campus.

- The CSU indicates that the bill's reporting requirements will result in additional, but undefined administrative costs to gather the required information for the annual reporting. While the existing program currently requires CSU to solicit, review, admit, and advise participating students while also tracking them within its data system and ensure that they are maintaining eligibility for the program, campuses have had to absorb this workload within existing resources.

- The CSU estimates one-time General Fund costs in the high tens of thousands of dollars for campuses to provide technical, website upgrades necessary to comply with the bill's program outreach requirements, such as providing program information during course registration and sending the annual email to all students. There would also be minor and absorbable ongoing costs to continue sending the annual email, ensure that the physical posting at advising offices is in place, and provide the presentation for the program at new student orientations.

SUPPORT: (Verified 8/30/24)

None received

OPPOSITION: (Verified 8/30/24)

None received

Prepared by: Olgalilia Ramirez / ED. / (916) 651-4105
8/30/24 17:27:00

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

SENATE RULES COMMITTEE AB 1252
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1252
Author: Wicks (D) and Gabriel (D), et al.
Amended: 8/28/24 in Senate
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-1, 6/25/24
AYES: Wahab, Bradford, Skinner, Wiener
NOES: Seyarto

SENATE APPROPRIATIONS COMMITTEE: 4-2, 8/15/24
AYES: Caballero, Ashby, Becker, Wahab
NOES: Jones, Seyarto
NO VOTE RECORDED: Bradford

ASSEMBLY FLOOR: 56-6, 1/25/24 - See last page for vote

SUBJECT: Office of Gun Violence Prevention

SOURCE: Author

DIGEST: This bill establishes the Office of Gun Violence Prevention (OGVP) within the Department of Justice (DOJ), and outlines its responsibilities and key functions, which includes compiling a public report.

Senate Floor Amendments of 8/28/24 outline new roles for the OGVP to fulfill within the DOJ, while eliminating the creation of the Commission to End Gun Violence. The new roles include advising the Attorney General, acting as a liaison between gun stakeholders, and provide implementation. Also requires the OGVP to release a public report by July 1, 2026 relating to new developments and effective practices in gun violence prevention.

ANALYSIS:

Existing law:

1) Declares that too little is known about firearm violence and its prevention, that too little research has been done on firearm violence, and that California's uniquely rich data related to firearm violence have made possible important, timely, policy-relevant research that cannot be conducted elsewhere. (Pen. Code, § 14230, subd. (e).)

2) States the intent of the Legislature to establish a center to research firearm-related violence and that the center, the Firearm Violence Research Center (FVRC) be administered by the University of California. (Penal (Pen.) Code, § 14231, subd. (a).)

3) States that interdisciplinary work of the FVRC shall address the following:

   a) The nature of firearm violence, including individual and societal determinants of risk for involvement in firearm violence, whether as a victim or a perpetrator;

   b) The individual, community, and societal consequences of firearm violence; and

   c) Prevention and treatment of firearm violence at all societal levels. (Pen. Code, § 14231, subd. (a)(1).)

4) Provides that the FVRC shall also:

   a) Conduct basic, translational, and transformative research with a mission to provide the scientific evidence on which sound firearm violence prevention policies and programs can be based. Its research shall include, but not be limited to, the effectiveness of existing laws and policies intended to reduce firearm violence, including the criminal misuse of firearms, and efforts to promote the responsible ownership and use of firearms;

   b) Work on a continuing basis with policymakers in the Legislature and state agencies to identify, implement, and evaluate innovative firearm violence prevention policies and programs;

   c) Help ensure a long-term and successful effort to understand and prevent firearm violence, the FVRC shall recruit and provide specialized training opportunities for new researchers, including experienced investigators in

related fields who are beginning work on firearm violence, youth investigators who have completed their education, postdoctoral scholars, doctoral students, and undergraduates; and,

d) As a supplement to its own research, the FVRC may administer a small grant program for research on firearm violence. (Pen. Code, § 14231, subd. (a)(2)-(5).)

5) Establishes the California Violence Intervention and Prevention Grant Program (CalVIP) within the Board of State and Community Corrections (BSCC) to issue grants, until January 1, 2025, to hospital-based violence intervention programs, street outreach programs, and focused deterrence strategies that interrupt cycles of violence in order to reduce homicides, shootings, and aggravated assaults. (Pen. Code, § 14131.)

6) States that, in awarding CalVIP grants, the BSCC must give preference to applicants demonstrating the greatest likelihood of reducing violence, without also contributing to mass incarceration. (Pen. Code, § 14131, subd. (g).)

7) Outlines the DOJ's responsibility to support activities to inform firearm and ammunition purchasers and firearm owners about gun safety laws and responsibilities (Revenue and Taxation Code 36005 (c)(5)).

This bill:

1) Codifies the OGVP within the DOJ.

2) Sets forth the following key functions and responsibilities of the OGVP:

a) Advise the Attorney General on gun violence prevention related matters,

b) Serve as a liaison to relevant stakeholders,

c) Support the implementation, coordination, and effectiveness of gun violence prevention laws,

d) Issue a public report on or before July 1, 2026,

e) While collecting data for the report, OGVP must solicit input from recognized outside experts and stakeholders.

3) Requires the public report mentioned above to include the following information:

a) Gaps in firearm tracing systems and recommendations to alleviate them,

b) Recommendations to implement and improve permitting and licensing and registration frameworks to limit unsafe firearm access,

c) Evaluations of policies to curb or eliminate irresponsible firearm industry practices,

d) Identifications of gaps and barriers to success and proposing strategies to replicate best practices,

e) Evaluations of coordination and strategic planning across state and local agencies,

f) Best practice recommendations for improving implementation and coordination for gun violence responses,

g) A five year strategic plan for reducing gun violence in California.

4) This report must be made publicly available by the OGVP within 60 days after completing the report.

Background

Office of Gun Violence Prevention (OGVP). On September 21, 2022, California's Attorney General launched the OGVP so that the DOJ can assist in the implementation of strategic and innovative programs to reduce gun violence. (DOJ. Attorney General Bonta Launches Office of Gun Violence Prevention. (Sept. 21, 2022).) Currently, the OGVP's stated mission is, "to reduce and prevent gun violence, firearm injury, and related trauma. OGVP will support DOJ's ongoing gun violence reduction efforts led by the Bureau of Firearms and several litigation teams – including seizure of firearms from dangerous individuals using the Armed and Prohibited Persons System, Prosecution of firearms trafficking cases, and defense of California's commonsense guns laws." (DOJ. Office of Gun Violence Prevention.)

This bill would codify the existence of the OGVP, and also require it to convene a commission which would issue a report within one year of its creation that would improve the effectiveness of gun violence prevention-focused laws by identifying strategies to replicate best strategies, coordinate planning across different state and local agencies, and make recommendations for improving court, law enforcement, health care, and crime victim system responses to gun violence. Seeing as how the OGVP already exists, and the functions of the proposed commission seem to fall

under the purview of the OGVP, creating the Commission to End Gun Violence could be duplicative of the already existing OGVP. This bill requires the proposed commission to convene and report on information that might already be maintained by the OGVP, thus possibly codifying two entities with very similar functions and purviews.

The California Firearm Violence and Research Act. In 2016, the Legislature passed the California Firearm Violence and Research Act declaring gun violence a significant public health problem in California and establishing the Firearm Violence and Research Center (FVRC) at UC Davis to "provide the scientific evidence on which sound firearm violence prevention policies and program can be based." (AB 1602 (Committee on Budget), of the 2015-2016 Legislative Session, amended by AB 173 (Committee on Budget), of the 2021-2022 Legislative Session.) The principle work of the FVRC is researching the nature of firearm violence and its individual, community, and societal consequences. This work is done by experts in firearm policy in varied fields, "including medicine, epidemiology, statistics and biostatistics, criminology, the law, economics, and policy studies." (https://health.ucdavis.edu/vprp/UCFC/index.html**)**

The difference between FVRC and OGVP appears to be the focus of their pursuits. Whereas the FVRC primarily focuses on research projects and publishing peer-reviewed literature, OGVP would create a plan for developing a new policy framework for addressing firearm violence.

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

According to the Senate Appropriations Committee:

Significant ongoing state costs (General Fun) to the DOJ of approximately $2 million or less. DOJ indicates that, in order for the Division of Law Enforcement (DLE), Bureau of Firearms (BOF) to implement the mandates of this bill, the following new permanent resources would be required, beginning January 1, 2025:

- 1.0 Director (CEA, Range B) - The CEA will plan, implement and establish policy to reduce and prevent gun violence and assist with litigation strategy. This position is highly visible and the responsibilities have a significant role in the Attorney General's mission to serve the people of California in providing clear policies to promote effective efforts to reduce and prevent gun violence, firearm injuries and related traumas and promote research and data collection. The CEA will also serve as the principal legal adviser to the DLE Chief and Chief Deputy Attorney General on gun laws providing advice and counsel to

assist with litigation strategy, regulations, and policies. Conduct thorough legal research to identify opportunities for proactive policy engagement.

- 1.0 Staff Services Manager (SSM) I – As the Deputy Director, this resource will oversee the administrative staff and support functions of OGVP, including statistical reporting, planning and directing budget, fiscal monitoring and personnel operations. The Deputy Director will also assist with external facing outreach and meeting with stakeholder groups.

- 2.0 Associate Governmental Program Analysts (AGPAs) - These positions will be necessary to fill the requirements of the bill, to support the Commission, establish program goals and makes decisions affecting operating procedures for OGVP. Establish and cultivate relationships with various state agency personnel, law enforcement and public safety organizations. Research policy matters and legislation at the request of the Director and Deputy Director. Assist in the preparation of the program report, develop proposals, fact sheets, program plans and other needed material.

DOJ also notes that the creation of the OGVP would require assistance from Department of Justice Research Services (DOJRS), within DOJ's Office of General Counsel division, to perform a variety of complex assignments to advance the OGVP initiatives and improve gun violence prevention through the analysis of criminal justice datasets. To address the increase in workload, DOJRS would require additional resources to serve as leads in data collection and compilation tasks, complex statistical analysis, and assist with the production of the report. Additionally, they would work with external stakeholder groups that include law enforcement agencies, private research organizations, academia and other state agencies to focus on particular research and evaluation issues. The following positions would be required beginning January 1, 2025 and ongoing:

- 1.0 Research Data Specialist (RDS) II - the RDS II would lead the research effort by creating a research program plan, selecting data collection methods, lead data collection efforts potentially including interviews, focus groups, listening sessions, and surveys, selecting relevant quantitative and qualitative analysis approaches, conduct complex analysis, interpreting the results, and providing findings and recommendations to relevant stakeholders via written reports, memos, and presentations. The RDS II would also be responsible for liaising with internal and external stakeholders to keep them apprised of findings and solicit feedback and drafting the results of their research for inclusion in the mandated report.

- 1.0 Research Data Analyst (RDA) II - the RDA II would work with the Research Data Specialist II to support the research effort by conducting and synthesizing the extant empirical literature on the topic of gun violence prevention, supporting data collection efforts by programming surveys, recording and coding interviews, focus group, and listening session data, completing data entry, management, and organization, conducting simple and complex statistical and qualitative analysis, creating data visualizations to illustrate trends and findings, and writing up results. The RDA II would also be responsible for coordinating with participants and administrators to facilitate data collection.

SUPPORT: (Verified 8/29/24)

Brady Campaign
California Alliance of Academics and Communities for Public Health Equity
California State PTA
Everytown for Gun Safety Action Fund
Moms Demand Action

OPPOSITION: (Verified 8/29/24)

None received

ARGUMENTS IN SUPPORT:

According to California Alliance of Academics and Communities for Public Health Equity:

> The passage of AB 1252 (Wicks) should help to prioritize and improve the implementation, coordination, and effectiveness of California's gun violence prevention-focused laws and programs.
>
> [T]he establishment of a Commission to End Gun Violence will report on barriers to success and identify best practices, examine strategic planning across different state and local agencies, and recommend coordination among court, law enforcement, health care, and crime victim system responses to gun violence. CA Alliance supports AB 1252 (Wicks) and thanks you for working on issues of public safety.

ASSEMBLY FLOOR: 56-6, 1/25/24
AYES: Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bryan, Calderon, Juan Carrillo, Cervantes, Connolly, Davies,

Mike Fong, Gabriel, Garcia, Gipson, Grayson, Haney, Hart, 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: Essayli, Vince Fong, Gallagher, Hoover, Joe Patterson, Wallis

NO VOTE RECORDED: Addis, Bonta, Wendy Carrillo, Chen, Megan Dahle, Dixon, Flora, Friedman, Holden, Jones-Sawyer, Lackey, Mathis, Jim Patterson, Luz Rivas, Sanchez, Ta, Villapudua, Waldron

Prepared by: John Duncan / PUB. S. /
8/29/24 16:35:24

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

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THIRD READING

Bill No: AB 1465
Author: Wicks (D)
Amended: 8/23/24 in Senate
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 5-2, 7/5/23
AYES: Allen, Gonzalez, Hurtado, Menjivar, Skinner
NOES: Dahle, Nguyen

SENATE JUDICIARY COMMITTEE: 10-1, 7/11/23
AYES: Umberg, Wilk, Allen, Ashby, Caballero, Durazo, Laird, Min, Stern, Wiener
NOES: Niello

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 51-15, 6/1/23 - See last page for vote

SUBJECT: Nonvehicular air pollution: civil penalties

SOURCE: Bay Area Air Quality Management District

DIGEST: This bill as much as triples the penalties for air pollution violations if a Title V source, as defined, discharges one or more specified air contaminants.

Senate Floor Amendments of 8/23/24 make the threefold increase of penalties a maximum, and require air districts to consider the timeliness and accuracy of notifications provided by violators in assessing penalties.

ANALYSIS:

Existing federal law:

Defines, under Title V of the federal Clean Air Act, major stationary sources as those sources with a potential to emit that exceeds a specified threshold of air pollutants per year and creates an operating permits program for those sources, implemented by state and local permitting authorities.

Existing state law:

1) Requires air districts to adopt and enforce rules and regulations to achieve and maintain state and federal ambient air quality standards in all areas affected by non-vehicular emission sources under their jurisdiction. (Health and Safety Code (HSC) § 40000 et seq.)

2) Prohibits a person, except as specified, from discharging air contaminants or other material that cause injury, detriment, nuisance, or annoyance or endanger the comfort, repose, health or safety to any considerable number of persons, or to the public, or that cause, or have a tendency to cause, injury or damage to a business or property. (HSC § 41700)

3) Defines a toxic air contaminant (TAC) as an air pollutant which may cause or contribute to an increase in mortality or in serious illness, or which may pose a present or potential hazard to human health, including a substance that is listed as a hazardous air pollutant pursuant to the federal Clean Air Act. (HSC § 39655)

4) Specifies certain air contaminants, including:

    a) TACs, including those incorporated in the Federal Clean Air Act (FCAA) (HSC § 39657);

    b) "Air contaminant" or "air pollutant" means any discharge, release, or other propagation into the atmosphere and includes, but is not limited to, smoke, charred paper, dust, soot, grime, carbon, fumes, gases, odors, particulate matter, acids, or any combination thereof (HSC § 39013); and,

    c) Establishes ambient air quality standards for the following pollutants, pursuant to Title 17 CCR § 70200: Particulate Matter (PM10 and PM2.5), Ozone (O3), Nitrogen Dioxide (NO2), Sulfate, Carbon Monoxide (CO), Sulfur Dioxide (SO2), Visibility Reducing Particles, Lead, Hydrogen Sulfide (H2S), and Vinyl Chloride.

5) Prescribes maximum civil penalty amounts for violations as follows (HSC § 42400 et seq.):

   a) Strict liability: $5,000, $10,000 or $15,000 per day, depending on specified circumstances. Penalties in excess of $5,000 permit an affirmative defense that the violation was caused by an act that was not intentional or negligent. The $15,000 level applies when a violation causes actual injury to a considerable numbers of persons or the public.

   b) Negligent: $25,000 per day, or $100,000 if the violation causes great bodily injury or death.

   c) Knowing: $40,000 per day, or $250,000 if the violation causes great bodily injury or death.

   d) Willful and intentional: $75,000 per day.

   e) Willful, intentional, or reckless: $125,000 per day for a person, or $500,000 for a corporation, if the violation results in an unreasonable risk great bodily injury or death. $250,000 for a person, or $1,000,000 for a corporation, if the violation causes great bodily injury or death.

   f) Intentional falsification of a required document: $35,000.

6) Requires the maximum penalties in effect January 1, 2018 to increase annually based on the California Consumer Price Index. (HSC § 42411)

7) Requires that, in determining the amount of penalty assessed, that the extent of harm, nature and persistence of violation, length of time, frequency of past violations, the record of maintenance, the unproven nature of the control equipment, actions taken by the defendant to mitigate the violation and the financial burden to the defendant be taken into consideration. (HSC § 42400.8)

This bill:

1) Increases (not exceeding a factor of three) the penalties for six specified violations if a Title V source discharges specified air contaminants.

2) Directs air districts to consider health impacts, community disruptions, the timeliness and accuracy of the notifications provided by the violator and other

circumstances when they assess penalties.

Background

1) *Title V sources.* Under the FCAA, any major source of air pollution (100 tons/year, or less for certain pollutants or under certain conditions) must receive a major source permit from its local air district to be able to operate.

   As an example, in the Bay Area Air Quality Management District, there are five Title V refineries, among 79 total Title V sources. These sources range from power plants and solid waste facilities to the C & H sugar factory and a Tesla Motors plant.

2) *Living near a refinery*. California is home to 19 refineries. Petroleum refineries separate crude oil into a wide array of petroleum products through a series of physical and chemical separation techniques. The refining industry supplies several widely used everyday products including petroleum gas, kerosene, diesel fuel, motor oil, asphalt, and waxes.

   According to the American Lung Association's *State of the Air 2022 Report Card*, all 19 of the state's refineries are in counties with a failing grade for PM pollution, and 18 of the 19 are in counties with failing grades for ozone pollution as well. According to the US Enviornmental Protection Agency's EJScreen tool, the communities within five miles of those refineries are on average over 70% people of color, with some being as high as 95% people of color. Taken together, these communities (according to the CalEnviroScreen 4.0 tool) are, on average, among the most pollution-burdened communities in the state.

3) *Penalties for violating air pollution standards*. California's non-vehicular air pollution statutes provide for civil penalties for violations of air pollution standards. Penalties are assessed based on the number of days of violation and the intent of the violator. In the absence of evidence to indicate negligence or worse (i.e., knowledge and failure to correct or willful and intentional behavior), civil penalties are assessed at penalty ceilings for the strict liability classification ($10,000 per day), where the violation is found to occur but districts need not establish knowledge, negligence, intent or injury. No minimum penalty is required, leaving the amount prosecuted at the discretion of the air district.

According to the Bay Area Air Quality Management District, most large facilities, by virtue of total permitted emissions of criteria and toxic pollutants, generally fall under the $10,000 penalty cap, except under certain circumstances, such as proven negligent or willful and intentional behavior. Penalties for violating air quality regulations and permits are supposed to act as a meaningful deterrent to encourage proper operation and reporting, which prevent unregulated releases of air pollutants. For most facilities, whether they are larger Title V facilities or smaller non-Title V facilities, the $10,000 ceiling has provided credible deterrence.

Comments

1) *Purpose of the bill.* According to the author, "AB 1465 triples civil penalties for Title V sources who violate air quality standards, including refineries. In the Bay Area, refineries are some of the largest sources of air pollutants, and in recent years there has been a serious decline in compliance with air quality requirements coupled with increases in flaring events that release toxic air contaminants into neighboring communities. Refinery flaring and other pollution events can result in shelter-in-place notifications, school closures, and a surge of visits to heath care facilities for medical care. In my district, increased flaring events have led to incidents that have negatively impacted health of the community, including schools in the surrounding areas. Serious disruptions caused by flaring or similar pollution discharges at these sources are occurring far too often. These emitters must be held more accountable when they pollute the air. The consequences for air quality violations must be severe enough to deter a discharge before it occurs, so emitters don't simply treat fines for causing community disruption as an acceptable cost of doing business."

2) *Community disruptions*. Last session's AB 1897 (Wicks, 2022) would have applied to a pollution discharge that resulted in, "a disruption to the community, including, but not limited to hospitalizations, residential displacement, shelter in place, evacuation, or destruction of property." Subsequent amendments changed that provision to instead read, "The discharge results in a significant increase in hospitalizations, residential displacement, shelter in place, evacuation, or destruction of property." This seemingly innocuous change considerably limited the utility of the bill, and so the author elected to not move forward with the issue altogether. Requiring "a significant increase" in those effects rather than "a disruption to the community" means that sources would be further incentivized to underreport incidents, and places a considerable burden on the air district for proving resulting impacts.

An illustrative example of why this distinction is important occurred November 2022 in Martinez, CA. On the day after Thanksgiving, 20 tons of ash were released by The Martinez Refining Co. and blanketed the surrounding neighborhoods. Initially, the company did not disclose the release. When pressed, the company assured residents the dust was non-toxic, non-hazardous and "naturally occurring" spent-catalyst dust from the refining processes and offered free car washes. However, subsequent investigation by the county public health department revealed that—bound with that non-toxic, non-hazardous dust—there was also barium and chromium in the release. This led to the department issuing an alert for residents to not eat from their gardens until the soil was fully tested. Ultimately, they announced the ash-laden soil was safe months later. Nevertheless, this entire incident was unequivocally a disruption to the community, and yet it did not result in a "significant increase in hospitalizations, residential displacement, shelter in place, evacuation, or destruction of property." This fact underscores the need for local air districts to have discretion as to the nature of a pollution release's impact on the community. Moreover, another release of petroleum coke from this same refinery less than nine months after last year's release underscores the need for diligent regulation of these pollution events.

3) *Why is this needed?* Ultimately, most Title V facilities should not expect (either with or without this bill) to pay the maximum possible fine for incidental, accidental releases. However, there is a small subset of violations occurring at the largest facilities—refineries—for which the $10,000 ceiling is inadequate based on the impacts that their violations can have on the surrounding community. These are events that result in "shelter in place" recommendations from local officials, public complaints of poor air quality, odors, and nuisance, cancellation of outdoor events, and upticks in visits to health care facilities by residents. In these situations, a facility can receive a $10,000 penalty, but this penalty does not accurately reflect the disruption caused by their activities in the nearby community. In spite of repeated $10,000 penalties being assessed, some of these operators continue to do operate largely the same and enjoy near-record profits.

Taken together, this bill, as written, would allow air districts to, when necessary and appropriate, fine certain major polluters more than they are allowed to today. This could represent a helpful addition to the tools available to the regulators. Having the authority to levy a higher penalty on major polluters should help them meaningfully disincentivize major, recurring pollution releases and better protect the communities they serve.

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

SUPPORT: (Verified 8/26/24)

Bay Area Air Quality Management District (source)
1000 Grandmothers for Future Generations
350 Bay Area Action
350 Conejo / San Fernando Valley
350 Humboldt
350 Sacramento
350 Ventura County Climate Hub
Active San Gabriel Valley
American Lung Association in California
Ban Sup (single Use Plastic)
Benecians for A Safe and Healthy Community
Breathe California
California Air Pollution Control Officers Association
Carson; City of
Citizen Air Monitoring Network
Clean Water Action
Cleanearth4kids.org
Climate Action California
Coalition for Clean Air
Earthjustice
Good Neighbor Steering Committee of Benicia
Interfaith Climate Action Network of Contra Costa County
Natural Resources Defense Council (NRDC)
Nextgen California
Rodeo Citizens Association
San Diego County Air Pollution Control District
San Francisco Bay Physicians for Social Responsibility
Sandiego350
Santa Cruz Climate Action Network
Sea Hugger
South Coast Air Quality Management District
Sunflower Alliance
Union of Concerned Scientists
Ventura Climate Coalition
Vote Solar
West LA Democratic Club

South Coast Air Quality Management District

OPPOSITION: (Verified 8/27/24)

California Association of Sanitation Agencies
California Council for Environmental & Economic Balance (CCEEB)

ARGUMENTS IN SUPPORT: According to this bill's sponsor, Bay Area Air Quality Management District, "As an example, in the Bay Area, Title V sources, and specifically refineries, are some of the largest sources of criteria pollutants and toxic air contaminants, and overall compliance with air quality permit requirements at the five Bay Area refineries has declined precipitously in recent years, with significant increases in flaring events, permit condition deviations, and Notices of Violation (NOVs)… This has resulted in increased exposure in refinery communities to toxic air contaminants, and increasing shelter-in-place notifications, school closures, and visits to health care facilities for medical care. Yet despite the disruption to these communities, air districts are generally limited to a penalty ceiling of $10,000 per violation, which seems to be a minor cost of doing business rather than acting as a deterrent to future violations.

AB 1465 triples the civil penalty ceiling at Title V sources for violations in which a discharge contains toxic air contaminants. In the above case under strict liability provisions, the current $10,000 penalty ceiling would rise to $30,000. AB 1465 does not mandate $30,000 civil penalties for violations meeting the above requirements but rather works in conjunction with existing state law (HSC Section 42403), which provides guidance for penalties assessed by a court or through a settlement."

ARGUMENTS IN OPPOSITION: According to the California Association of Sanitation Agencies, "We agree with what we understand to be the original intent of the bill, which was to give the Air Board discretionary authority to impose significant penalties for chronic air pollution from refineries. Unfortunately, as amended, these substantial penalties could also be levied against a Title V wastewater agency for the release of toxic air contaminants. There is a significant difference in these types of facilities. Unlike refineries which are privately held for-profit corporations, public wastewater agencies provide an essential public service and all costs to the agency, including penalties, are borne by the ratepaying public. While our facilities strive to be in good standing and full compliance with their air quality permits, we do not think they should be subject to significantly increased penalties that were originally intended to address bad actors and chronic

violations from refineries. While we understand there is discretionary authority being provided, we believe the increased penalties should be limited to refineries that are not substantially similar operations."

ASSEMBLY FLOOR: 51-15, 6/1/23
AYES: Addis, Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Wendy Carrillo, Connolly, Mike Fong, Friedman, Garcia, Gipson, Grayson, Haney, Hart, Holden, Irwin, Jackson, Jones-Sawyer, Kalra, Lee, Low, Lowenthal, Maienschein, McCarty, McKinnor, Muratsuchi, Ortega, Pacheco, Papan, Pellerin, Petrie-Norris, Reyes, Luz Rivas, Robert Rivas, Santiago, Schiavo, Soria, Ting, Valencia, Ward, Weber, Wicks, Wilson, Wood, Zbur, Rendon
NOES: Alanis, Chen, Megan Dahle, Dixon, Flora, Vince Fong, Gallagher, Hoover, Lackey, Mathis, Jim Patterson, Joe Patterson, Sanchez, Ta, Waldron

NO VOTE RECORDED: Bains, Calderon, Juan Carrillo, Cervantes, Davies, Essayli, Gabriel, Stephanie Nguyen, Quirk-Silva, Ramos, Rodriguez, Blanca, Rubio, Villapudua, Wallis

Prepared by: Eric Walters / E.Q. / (916) 651-4108
8/27/24 9:36:40

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

Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 1831
Author: Berman (D) and Sanchez (R), et al.
Amended: 8/28/24 in Senate
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 5-0, 6/18/24
AYES: Wahab, Seyarto, Bradford, Skinner, Wiener

ASSEMBLY FLOOR: 71-0, 5/23/24 - See last page for vote

SUBJECT: Crimes: child pornography

SOURCE: California District Attorneys Association
Children's Advocacy Institute
Common Sense Media
Screen Actors Guild – American Federation of Television and Radio Artists
Ventura County District Attorney's Office

DIGEST: This bill expands certain existing provisions of law related to child pornography and obscene matter depicting a minor engaged in sexual conduct to include matter that is digitally altered or generated by the use of artificial intelligence (AI).

Senate Floor Amendments of 8/28/24 delete several provisions in this bill and add in a contingency clause stating that the bill shall only be operative if Senate Bill 1381 (Wahab) is also enacted.

ANALYSIS:

Existing law:

1) Defines "obscene matter" to mean "matter taken as a whole, that to the average person, applying contemporary statewide standards, appeals to the prurient interest, that, taken as a whole, depicts or describes sexual conduct in a

patently offensive way, and that, taken as a whole, lacks serious, literary, artistic, political, or scientific value. (Pen. Code, § 311, subd. (a).)

2) Prohibits, except as provided, the act of knowingly sending or bringing into this state for sale or distribution, or possessing, preparing, publishing, producing, developing, duplicating, or printing in this state any representation of information, data, or image, including a non-exhaustive list of types of medium, that contains or incorporates in any manner, any film or filmstrip, with the intent to distribute, exhibit or exchange with others any obscene matter, knowing that the matter depicts a person under the age of 18 years personally engaging in or personally simulating sexual conduct, as defined. (Pen. Code, § 311.1, subd. (a).)

3) Prohibits every person who knowingly sends or brings into this state for sale or distribution, or possesses, prepares, publishes, produces, or prints, with intent to distribute or to exhibit to others, or who offers to distribute, distributes, or exhibits to others, any obscene matter. (Pen. Code, § 311.2, subd. (a).)

4) Prohibits, except as provided, the act of knowingly sending or bringing into this state for sale or distribution, or possessing, preparing, publishing, producing, developing, duplicating, or printing in this state any representation of information, data, or image, including a non-exhaustive list of types of medium, that contains or incorporates in any manner, any film or filmstrip, with intent to distribute, exhibit or exchange with others for commercial consideration, any obscene matter, knowing that the matter depicts a person under the age of 18 years personally engaging in or personally simulating sexual conduct. (Pen. Code, § 311.2, subd. (b).)

5) Prohibits, except as provided, the act of knowingly sending or bringing into this state for sale or distribution, or possessing, preparing, publishing, producing, developing, duplicating, or printing in this state any representation of information, data, or image, including a non-exhaustive list of types of medium, images that contains or incorporates in any manner, any film or filmstrip, with intent to distribute, exhibit or exchange with a person 18 years of age or older, any matter, knowing that the matter depicts a person under the age of 18 years personally engaging in or personally simulating sexual conduct. (Pen. Code, § 311.2, subd. (c).)

6) Prohibits, except as provided, the act of knowingly sending or bringing into this state for sale or distribution, or possessing, preparing, publishing, producing, developing, duplicating, or printing in this state any representation of information, data, or image, including a non-exhaustive list of types of

medium, that contains or incorporates in any manner, any film or filmstrip, with intent to distribute or exhibit to, or to exchange with, a person under 18 years of age, any matter, knowing that the matter depicts a person under the age of 18 years personally engaging in or personally simulating sexual conduct. (Pen. Code, § 311.2, subd. (d).)

7) Makes a person, except as provided, guilty of sexual exploitation of a child if the person knowingly develops, duplicates, prints, or exchanges any representation of information, data, or image, including a non-exhaustive list of types of medium, that contains or incorporates in any manner, any film or filmstrip that depicts a person under the age of 18 years engaged in an act of sexual conduct, as defined. (Pen. Code, § 311.3, subd. (a).)

8) Defines "sexual conduct" for purposes of sexual exploitation of a child to mean any of the following:

   a) Sexual intercourse;

   b) Penetration of the vagina or rectum by any object;

   c) Masturbation for the purpose of sexual stimulation of the viewer;

   d) Sadomasochistic abuse for the purpose of sexual stimulation of the viewer;

   e) Exhibition of the genitals or the pubic or rectal area of any person for the purpose of sexual stimulation of the viewer; or,

   f) Defecation or urination for the purpose of sexual stimulation of the viewer. (Pen. Code, § 311.3, subd. (b).)

9) Prohibits, except as provided, a person who, with knowledge that a person is a minor, or who, while in possession of any facts on the basis of which they should reasonably know that the person is a minor, hires, employs, or uses the minor to participate in the production, distribution or exhibition of child pornography in violation of Penal Code section 311.2. (Pen. Code, § 311.4, subd. (a).)

10) Prohibits, except as provided, a person who knows that a person is a minor under the age of 18 years, or who should reasonably know that the person is a minor under the age of 18 years, knowingly promoting, employing, using, persuading, inducing, or coercing a minor under the age of 18 years to engage in or assist others to engage in either posing or modeling alone or with others for purposes of preparing any representation of information, data, or image,

including a non-exhaustive list of types of medium that contains or incorporates in any manner, any film, filmstrip, or a live performance involving sexual conduct by a minor for commercial purposes. (Pen. Code, § 311.4, subd. (b).)

11) Prohibits, except as provided, a person who, with knowledge that a person is a minor under the age of 18 years, or who, while in possession of any facts on the basis of which he or she they should reasonably know that the person is a minor under the age of 18 years, knowingly promoting, employing, using, persuading, inducing, or coercing a minor under the age of 18 years to engage in either posing or modeling alone or with others for purposes of preparing any representation of information, data, or image, including a non-exhaustive list of types of medium, that contains or incorporates in any manner, any film, filmstrip, or a live performance involving, sexual conduct by a minor under the age of 18 years alone or with other persons or animals. (Pen. Code, § 311.4, subd. (c).)

12) Defines "sexual conduct" for purposes of Penal Code section 311.4 to mean "any of the following, whether actual or simulated: sexual intercourse, oral copulation, anal intercourse, anal oral copulation, masturbation, bestiality, sexual sadism, sexual masochism, penetration of the vagina or rectum by any object in a lewd or lascivious manner, exhibition of the genitals or pubic or rectal area for the purpose of sexual stimulation of the viewer, any lewd or lascivious sexual act as defined in Section 288, or excretory functions performed in a lewd or lascivious manner, whether or not any of the above conduct is performed alone or between members of the same or opposite sex or between humans and animals. An act is simulated when it gives the appearance of being sexual conduct." (Pen. Code, § 311.4, subd. (d)(1).

13) Prohibits, except as provided, a person from knowingly possessing or controlling any matter, representation of information, data, or image, including a non-exhaustive list of types of medium, that contains or incorporates in any manner, any film or filmstrip, the production of which involves the use of a person under 18 years of age, knowing that the matter depicts a person under 18 years of age personally engaging in or simulating sexual conduct. (Pen. Code, § 311.11, subd. (a).)

14) States, except as provided, that any city, county, city and county, or state official or agency in possession of matter that depicts a person under the age of 18 years personally engaging in or personally simulating sexual conduct is subject to forfeiture. (Pen. Code, § 312.3, subd. (a).)

15) Defines "matter" to mean "any book, magazine, newspaper, or other printed or written material or any picture, drawing, photograph, motion picture, or other pictorial representation, or any statue or other figure, or any recording, transcription or mechanical, chemical or electrical reproduction, or any other articles, equipment, machines, or materials. "Matter" also means any representation of information, data, or image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disc, data storage media, CD-ROM, or computer-generated equipment or any other computer-generated-image that contains or incorporates in any manner any film or filmstrip. (Pen. Code, § 312.3, subd. (h).)

This bill:

1) Expands the scope of certain provisions related to child pornography and obscene matter to include digitally-altered or AI-generated matter, as provided.

2) Defines "AI" to mean "an engineered or machine-based system that varies in its level of autonomy and that can, for explicit or implicit objectives, infer from the input it receives how to generate outputs that can influence physical or virtual environments.

3) Specifies that obscene matter may contain a digitally altered or AI-generated depiction of what appears to be a person under 18 years of age engaging in sexual conduct.

4) Provides that it is not necessary to prove that matter that depicts a real person under 18 years of age is obscene or lacks serious literary, artistic, political, or scientific value in order to establish a violation of Penal Code section 311.2.

5) States that every person who knowingly possesses or controls any matter, representation of information, data, or image or any other computer-generated image that contains or incorporates in any manner, any film, filmstrip, or any digitally altered or AI-generated matter, knowing that the matter is obscene and depicts what appears to be a person under 18 years of age, or contains digitally altered or artificial-intelligence-generated data depicting what appears to be a person under 18 years of age, engaging in or simulating sexual conduct, is guilty of a felony as specified.

6) Contains Legislative findings and declarations stating that the harms caused by child sexual assault material (CSAM) exist regardless of how CSAM is

produced and that the First Amendment does not protect obscenity even if the obscenity is created entirely by AI.

Comments

First Amendment: Relevant Case Law. In *Free Speech Coalition, supra*, the U.S. Supreme Court declared unconstitutional a federal law that defined child pornography to include visual depictions that appear to be of a minor, even if no minor was actually used. (535 U.S. 234.) The government argued that while real children were not harmed in the production of the materials, the materials could still lead to abuse of real children by pedophiles who "whet their own sexual appetites" with such materials. (*Id*. at p. 241.) Additionally, the government argued that as imaging technology improves, it becomes more difficult to prove that a particular picture was produced using actual children. (*Id*. at 242.) The Court found these arguments were insufficient reasons to treat virtual child pornography the same as child pornography made with a real minor. In *Ferber, supra*, the Court found that the production and distribution of child pornography are "intrinsically related" to the sexual abuse of the child because the material acts as a permanent record of the child's abuse and the circulation of the material would harm the child's reputation and emotional well-being. (*Id*. at p. 249.) The Court distinguished the harm in virtual child pornography created without using a real minor because it is not a recording of a criminal act nor is there continuing harm on a child victim by the distribution of the materials. (*Id*. at p. 250.)

The *Free Speech Coalition* ruling, albeit in dicta, did comment on the difference between pure virtual images versus morphing images where innocent pictures of real children are altered so that the children appear to be engaged in sexual activity. "Although morphed images may fall within the definition of virtual child pornography, they implicate the interests of real children and are in that sense closer to the images in *Ferber*. Respondents do not challenge this provision, and we do not consider it." (*Id*. at p. 242.)

In *U.S. v. Hotaling* (2002), 599 F.Supp.2d 306, the Northern District Court of New York, relying on dicta from the *Free Speech Coalition* case, as well as other district court and U.S. appellate court cases, held that criminalizing morphed images of child pornography created without the filming or photography of actual sexual conduct on the part of the identifiable minor does not violate the First Amendment. (*Id*. at p. 321.) "An image of an identifiable, real child involving sadistic conduct -- even if manipulated to portray conduct that was not actually inflicted on that child -- is still harmful, and the amount of emotional harm inflicted will likely correspond to the severity of the conduct depicted." (*Id*. at p.

320, *citing U.S. v. Hoey* (1st Cir. 2007) 508 F.3d 687, 693.) *Hotaling* also cited similar reasoning which was used by another appellate court in holding that an image in which the face of a known child was transposed onto the naked body of an unidentified child in a lascivious pose constituted child pornography outside the scope of the First Amendment protections. (*Id*. at p. 319, *citing U.S. v. Bach* (8th Cir. 2005) 400 F.3d 622.)

In contrast, a California appellate court held that the possession of morphed images, while morally repugnant, does not fall outside the protection of the First Amendment. (*People v. Gerber* (2011) 196 Cal.App.4th 368, 386.) The court looked at Legislative history of previously enacted statutes that contain the same language -- "personally engaging in or personally simulating sexual conduct" -- and found that it is "clear that the purpose of that legislation was to prevent exploitation of children used to make child pornography." (*Id*. at p. 380, *citing* Sen. Com. on Judiciary, Analysis of Assem. Bill No. 1580 (1977-1978 Reg. Sess.) as amended Aug. 18, 1977, p. 1.) The court also noted that at the time that the Legislature enacted the crime of possession of child pornography, the term "child pornography" had a particular meaning under *Ferber*, *supra*. Specifically, not only must the offender have known that the matter depicts a person under the age of 18 years personally engaging in or simulating sexual conduct, production of the matter must have "involve[d] the use of a person under the age of 18 years…" (*Id*. at p. 382, *citing Ferber*, *supra*, 458 U.S. 747, and Cal. Pen. Code, § 311.11.)

Thus, *Gerber* held that "it would appear that a real child must have been used in the production and actually engaged in or simulated the sexual conduct depicted." (*Id*. at p. 382.) The court acknowledged the dicta in *Free Speech Coalition* on morphed images, however, held that such altered materials are closer to virtual child pornography than to real child pornography because the act does not necessarily involve sexual exploitation of an actual child. (*Id*. at p. 386.) Relying on the rationales laid out in both *Ferber*, *supra* and *Free Speech Coalition*, the court emphasized that "*Ferber's* judgment about child pornography was based upon how it was made, not on what it communicated and *Ferber* reaffirmed that where the speech is neither obscene nor the product of sexual abuse, it does not fall outside the protection of the First Amendment." (*Id*. at p. 385, *citing Free Speech Coalition*, *supra*, 535 U.S. at pp. 250-251.)

The Supreme Court has distinguished between statutes that criminalize possession and distribution of child pornography versus an offer for a transaction to provide or receive child pornography, regardless of whether the child pornography exists or involves a real child or is obscene. (*United States v. Williams* (2008) 553 U.S. 285)

In response to the ruling in *Free Speech Coalition*, *supra*, Congress revised the invalidated statute to include among other provisions, making it a crime to provide or request to obtain child pornography rather than targeting the underlying material itself. In *Williams*, *supra*, the U.S. Supreme Court reviewed the revised federal law post-*Free Speech Coalition*, *supra*, which was challenged based on overbreadth and vagueness doctrines. The statute did not require the actual existence of child pornography which would only fall outside First Amendment protections if the matter involves the use of an actual child or if it is obscene. (*Id*. at p. 292.) However, the statute did require that speaker believes or intends the listener to believe that the subject of the proposed transaction depicts real children. (*Id*. at p. 303.) The Court ruled that this prohibition does not violate the First Amendment. The majority opinion reasoned that offers to engage in illegal transactions are categorically excluded from First Amendment protection. (*Id*. at p. 297.) The Court likened the crime to inchoate crimes – acts looking toward the commission of another crime, in this case the delivery of child pornography – and similar to attempt which is an inchoate crime, impossibility of completing the crime is not a defense. (*Id*. at p. 300.) The dissent argued that the new statute impermissibly undermines the Court's prior ruling *Free Speech Coalition*, *supra*, by criminalizing the transaction of constitutionally protected material. (*Id*. at p. 323.)

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

According to the Senate Appropriations Committee:

- Cost pressures (Trial Court Trust Fund, General Fund) to the courts to adjudicate charges pertaining to AI-generated CSAM, possibly in the hundreds of thousands of dollars annually. A defendant charged with a misdemeanor or felony is entitled to no-cost legal representation and a jury trial. Actual costs will depend on the number of charges files and the amount of time needed to adjudicate each case. Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund may create a need for increased funding for courts from the General Fund. The Budget Act of 2024, for the fiscal year beginning July 1, 2024, includes a $97 million reduction to the trial courts, a commensurate reduction of up to 7.95 percent to the budget for the state-level judiciary, and a reduction of the trial court state-level emergency reserve in the Trial Court Trust Fund from $10 million to $5 million. The Budget Act also includes a $37.3 million General Fund backfill for the Trial Court Trust Fund to address the continued decline in civil fee and criminal fine and penalty revenues expected in fiscal year 2024–25.
- Costs (local funds, General Fund) to the counties and the California Department of Corrections and Rehabilitation (CDCR) to incarcerate people convicted of

CSAM offenses pertaining to AI-generated content. Actual incarceration costs will depend on the number of convictions, the length of each sentence, and whether each sentence must be served in county jail or state prison. The average annual cost to incarcerate one person in county jail is approximately $29,000. The Legislative Analyst's Office (LAO) estimates the average annual cost to incarcerate one person in state prison is $133,000. In 2023, CDCR admitted more than 100 people to state prison whose principal offense was one of the crimes affected by this bill. If 15 additional people are admitted to CDCR for AI-generated CSAM offenses, CDCR will incur incarceration costs of almost $2 million annually for each year of their incarceration, collectively. Although county incarceration costs are generally 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 resulting from 2011 public safety realignment.

SUPPORT: (Verified 8/28/24)

California District Attorneys Association (co-source)
Childrens Advocacy Institute (co-source)
Common Sense Media (co-source)
Screen Actors Guild – American Federation of Television and Radio Artists (co-source)
Ventura County District Attorney (co-source)
American Association of University Women - California
Brea Police Department
Calchamber
California Association of Highway Patrolmen
California Chamber of Commerce
California Federation of Teachers AFL-CIO
California State Sheriffs' Association
Center for Public Interest Law/children's Advocacy Institute/University of San Diego
CFT- a Union of Educators & Classified Professionals, AFT, AFL-CIO
City of Downey Police Department
County of Ventura
Crime Victims United
Jewish Family and Children's Services of San Francisco, the Peninsula, Marin and Sonoma Counties
Los Angeles City Attorney's Office
Los Angeles County District Attorney's Office

Microsoft Corporation
Orange County Sheriff's Department
Organization for Social Media Safety
Oxnard Police Department
Partnership for Safe Families & Communities of Ventura County
Paul Joseph Acting Chief of Police of the City of San Jose
Peace Officers Research Association of California (PORAC)
Sacramento County Sheriff Jim Cooper
San Diego County District Attorney's Office
San Diego Internet Crimes Against Children Task Force
San Jose Police Department
Simi Valley Police Department
SNAP INC.
Technet
The Child Abuse Prevention Council
Tik Tok INC.
Ventura County District Attorney

OPPOSITION: (Verified 8/28/24)

None received

ASSEMBLY FLOOR: 71-0, 5/23/24
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Chen, Connolly, Davies, Dixon, Flora, Mike Fong, Vince Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, McCarty, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Rendon, Reyes, Rodriguez, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wilson, Wood, Zbur, Robert Rivas
NO VOTE RECORDED: Cervantes, Megan Dahle, Essayli, Holden, Mathis, McKinnor, Luz Rivas, Blanca Rubio, Wicks

Prepared by: Stella Choe / PUB. S. /
8/29/24 16:35:25

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

SENATE RULES COMMITTEE AB 1836
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 1836
Author: Bauer-Kahan (D)
Amended: 8/15/24 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 11-0, 7/2/24
AYES: Umberg, Wilk, Allen, Ashby, Caballero, Durazo, Laird, Niello, Roth, Stern, Wahab

SENATE APPROPRIATIONS COMMITTEE: 5-1, 8/15/24
AYES: Caballero, Ashby, Becker, Bradford, Wahab
NOES: Jones
NO VOTE RECORDED: Seyarto

ASSEMBLY FLOOR: 59-0, 5/20/24 - See last page for vote

SUBJECT: Use of likeness: digital replica

SOURCE: SAG-AFTRA

DIGEST: This bill prohibits a person from producing, distributing, or making available the digital replica of a deceased personality's voice or likeness in an expressive audiovisual work or sound recording without prior consent, except as provided.

ANALYSIS:

Existing law:

1) Establishes California's right of publicity law, which provides that any person who knowingly uses another's name, voice, signature, photograph, or likeness, in any manner, on or in products, merchandise, or goods, or for purposes of advertising or selling, or soliciting purchases of, products, merchandise, goods or services, without such person's prior consent, shall be liable for any damages

sustained by the person or persons injured as a result thereof. (Civ. Code § 3344(a).)[1]

2) Provides that a use of a name, voice, signature, photograph, or likeness in connection with any news, public affairs, or sports broadcast or account, or any political campaign, shall not constitute a use for which consent is required pursuant to the above. (§ 3344(d).)

3) Subjects a person in violation to liability to the injured party for the greater of the actual damages suffered or statutory damages of $750, and any profits from the unauthorized use that are attributable to the use and are not taken into account in computing the actual damages. Punitive damages may also be awarded to the injured party or parties. The prevailing party shall also be entitled to attorney's fees and costs. (§ 3344(a).)

4) Establishes a right to publicity for a "deceased personality," which provides that any person who uses a deceased personality's name, voice, signature, photograph, or likeness, in any manner, on or in products, merchandise, or goods, or for purposes of advertising or selling, or soliciting purchases of, products, merchandise, goods, or services, without prior consent from the heirs or assignees is subject to liability for any damages sustained by the person or persons injured as a result thereof. Additionally provides that a violator is liable for the greater of $750 or the actual damages suffered by the injured party or parties, and any profits from the unauthorized use not attributable to the use and not taken into account in computing the actual damages. (§ 3344.1(a)(1).)

5) Excludes from the above a play, book, magazine, newspaper, musical composition, audiovisual work, radio or television program, single and original work of art, work of political or newsworthy value, or an advertisement or commercial announcement for any of these works, if it is fictional or nonfictional entertainment, or a dramatic, literary, or musical work. This is referred to as the "expressive works" exemption. (§ 3344.1(a)(2).)

6) Provides that if a work that is protected under this exemption includes within it a use in connection with a product, article of merchandise, good, or service, this use shall not be exempt, notwithstanding the unprotected use's inclusion in a work otherwise exempt, if the claimant proves that this use is so directly connected with a product, article of merchandise, good, or service as to constitute an act of advertising, selling, or soliciting purchases of that product,

[1] All further references are to the Civil Code unless otherwise specified.

article of merchandise, good, or service by the deceased personality without prior consent from the person or persons. (§ 3344.1(a)(3).)

7) Defines "deceased personality" as a natural person whose name, voice, signature, photograph, or likeness has commercial value at the time of their death, or because of their death, whether or not during the lifetime of that natural person the person used their name, voice, signature, photograph, or likeness on or in products, merchandise, or goods, or for purposes of advertising or selling, or solicitation of purchase of, products, merchandise, goods, or services. (§ 3344.1(h).)

8) Provides that these rights are property rights that are freely transferable or descendible and that expire 70 years after the death of the deceased personality. (§ 3344.1(b), (g).)

9) Exempts from the requirement for consent the use of a name, voice, signature, photograph, or likeness in connection with any news, public affairs, or sports broadcast or account, or any political campaign. (§ 3344.1(j).)

This bill:

1) Amends Section 3344.1 to provide that a person who produces, distributes, or makes available the digital replica of a deceased personality's voice or likeness in an expressive audiovisual work or sound recording without prior consent from those specified is liable to any injured party in an amount equal to the greater of $10,000 or the actual damages suffered by a person controlling the rights to the deceased personality's likeness.

2) Permits a digital replica to be used without consent, if the use of the digital replica meets any of the following criteria:

   a) The use is in connection with any news, public affairs, or sports broadcast or account.

   b) The use is for purposes of comment, criticism, scholarship, satire, or parody.

   c) The use is a representation of the individual as the individual's self in a documentary or in a historical or biographical manner, including some degree of fictionalization, unless the use is intended to create, and does

create, the false impression that the work is an authentic recording in which the individual participated.

d) The use is fleeting or incidental.

e) The use is in an advertisement or commercial announcement for one of the above works.

3) Defines the following terms:

a) "Audiovisual work" means a work that consists of a series of related images that are intrinsically intended to be shown by the use of machines or devices together with accompanying sounds, if any, regardless of the nature of the material objects, including films or tapes, in which the works are embodied.

b) "Digital replica" means a computer-generated, highly realistic electronic representation that is readily identifiable as the voice or visual likeness of an individual that is embodied in a sound recording, image, audiovisual work, or transmission in which the actual individual either did not actually perform or appear, or the actual individual did perform or appear, but the fundamental character of the performance or appearance has been materially altered. This does not include the electronic reproduction, use of a sample of one sound recording or audiovisual work into another, remixing, mastering, or digital remastering of a sound recording or audiovisual work authorized by the copyright holder.

4) Provides that in the case of an individual who performs music as a profession, an action to enforce this section may be brought by that individual and by any person or entity that has entered into a contract for the individual's exclusive personal services as a recording artist or an exclusive license to distribute sound recordings that capture the individual's audio performances.

Background

California has a statutory right to publicity that applies postmortem. The law prohibits a person from using a deceased personality's name, voice, signature, photograph, or likeness, in any manner, on or in products, merchandise, or goods, or for purposes of advertising or selling, or soliciting purchases of, products, merchandise, goods, or services, without prior consent. Exempt from this requirement are so called "expressive works," which include a play, book, magazine, newspaper, musical composition, audiovisual work, radio or television

program, single and original work of art, work of political or newsworthy value, or an advertisement or commercial announcement for any of these works, if it is fictional or nonfictional entertainment, or a dramatic, literary, or musical work.

Given the transformative capabilities of generative artificial intelligence to produce realistic digital replicas of these personalities, a call has been made to update California's statute to more adequately protect these postmortem publicity rights in this new technological age. This bill does so by creating a new right of action specific for nonconsensual "digital replicas" with exemptions for various uses, such as in news broadcasts or for purposes of comment or parody. The bill is sponsored by SAG-AFTRA. It is supported by various groups, including the California Labor Federation, AFL-CIO. It is opposed by tech and industry groups, including the California Chamber of Commerce and the Motion Picture Association.

Comments

According to the author:

> Performers deserve protection from exploitation by AI. California has strong protections for a living artist's voice, image, and likeness that are not the mirrored for deceased performers. Technology has progressed to the point to allow generation of new films, shows, and songs from deceased performers without due consent. Without similar protections to living performers, the intellectual property of deceased artists is at risk. When California's laws protecting artist's rights were written, no one anticipated the ability to re-animate the dead with AI. AB 1836 prevents the endless recycling of deceased artist's work by protecting deceased performers from exploitation by digital replicas.

Updating the law to address "digital replicas." This bill seeks to address the use of "digital replicas" of deceased personalities, The concern from the artistic community is that the terms of using such digital replicas need to be fairly negotiated:

> Innovations in digital technology and artificial intelligence have transformed the increasingly sophisticated world of visual effects, which can ever more convincingly draw from, replicate and morph flesh-and-blood performers into virtual avatars. Those advancements

> have thrust the issue toward the top of the grievances cited in the weekslong strike by the actors' union.
>
> SAG-AFTRA, the union representing more than 150,000 television and movie actors, fears that a proposal from Hollywood studios calling for performers to consent to use of their digital replicas at "initial employment" could result in its members' voice intonations, likenesses and bodily movements being scanned and used in different contexts without extra compensation.[2]

This bill prohibits a person from producing, distributing, or making available the digital replica of a deceased personality's voice or likeness in an expressive audiovisual work or sound recording without prior consent from specified persons, essentially the personality's heirs or their assignees. Violations subject the person to liability to any injured party in an amount equal to the greater of $10,000 or the actual damages suffered by a person controlling the rights to the deceased personality's likeness.

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

According to the Senate Appropriations Committee:

> Unknown, potentially significant cost pressure to the state funded trial court system (Trial Court Trust Fund, General Fund) to adjudicate the expanded cause of action created by this bill. The fiscal impact of this bill to the courts will depend on many unknown factors, including the numbers of violations alleged to have occurred, if parties settle the matter before the filing of an action, and the factors unique to each case. An eight-hour court day costs approximately $8,000 in staff in workload. If the bill results in only 12 or more days spent in court, trial court costs could be in the hundreds of thousands of dollars. While the courts are not funded on a workload basis, an increase in workload could result in delayed court services and would put pressure on the General Fund to fund additional staff and resources and to increase the amount appropriated to backfill for trial court operations. The Budget Act of 2024, for the fiscal year beginning July 1, 2024, includes a $97 million reduction to the trial courts, a commensurate reduction of up to 7.95 percent to the budget for the state-level judiciary, and a reduction of the trial court state-level emergency reserve in the Trial Court Trust Fund from $10 million to $5 million. The Budget Act also includes a $37.3 million

[2] Marc Tracy, *Digital Replicas, a Fear of Striking Actors, Already Fill Screens* (August 4, 2023) The New York Times, **https://www.nytimes.com/2023/08/04/arts/television/actors-strike-digital-replicas.html**.

General Fund backfill for the Trial Court Trust Fund to address the continued decline in civil fee and criminal fine and penalty revenues expected in fiscal year 2024–25.

SUPPORT: (Verified 8/20/24)

SAG-AFTRA (source)
California Labor Federation, AFL-CIO
Concept Art Association
Los Angeles County Democratic Party

OPPOSITION: (Verified 8/20/24)

California Chamber of Commerce
Computer & Communications Industry Association
Electronic Frontier Foundation
Media Coalition
Technet

ARGUMENTS IN SUPPORT: SAG-AFTRA, the sponsor of the bill, writes:

> Technology companies and content creators now have the tools to transform old video footage, sound recordings, life casts, body scans, still images, audio files, biometric data, and more, into realistic depictions of people performing things they have never performed or doing things they have never done. The latest in digital replication technology, courtesy of exponential advancements in AI, allows for the ability to transform still images into live action audiovisual content and the ability to easily clone human voices.
>
> This presents an obvious and direct threat to the families of deceased performers who now face, without immediate changes to the law, the nonconsensual digital replication of their loved ones into audio visual works and sound recordings. At present, this nonconsensual use is arguably permitted in California. Civil Code Section 3344.1 includes express, specific exemptions against liability for the unauthorized use of voice and likeness in "musical compositions, audiovisual works, or television programs."

If we don't pass AB 1836, California should prepare to be a new home for unscrupulous individuals and companies looking to commercialize the talents of deceased California performers.

There is no recourse in California for the families and/or beneficiaries if others wish to use their loved ones for profit. There is also no recourse for current artists who now must compete in a marketplace saturated with the digital clones of the deceased.

ARGUMENTS IN OPPOSITION: The Electronic Frontier Foundation writes:

California's existing law under Civil Code § 3344.1 limits liability for misappropriation of the use of a deceased personalities' "name, voice, signature, photograph, or likeness" in advertisements or on merchandise. A.B. 1836 would dramatically expand the reach of publicity rights in California – already among the most expansive in the nation--to encompass uses that are not tied to commercial products or advertising.

Under A.B. 1836, a deceased personality's estate could use it to extract statutory damages of $10,000 for the use of the dead person's image or voice "in any manner related to the work performed by the deceased personality while living" – an incredibly unclear standard that will invite years of litigation. And it does all of this not to protect any living person, but only those who hope to grow rich exploiting their identities long after they are long gone.

ASSEMBLY FLOOR: 59-0, 5/20/24
AYES: Addis, Aguiar-Curry, Alvarez, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Connolly, Flora, Mike Fong, Friedman, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Irwin, Jackson, Jones-Sawyer, Kalra, Lee, Low, Lowenthal, Maienschein, McCarty, McKinnor, Muratsuchi, Ortega, Pacheco, Papan, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Rendon, Reyes, Blanca Rubio, Santiago, Schiavo, Soria, Ting, Valencia, Villapudua, Waldron, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas

NO VOTE RECORDED: Alanis, Arambula, Cervantes, Chen, Megan Dahle, Davies, Dixon, Essayli, Vince Fong, Gabriel, Hoover, Lackey, Mathis, Stephanie Nguyen, Jim Patterson, Joe Patterson, Luz Rivas, Rodriguez, Sanchez, Ta, Wallis

Prepared by: Christian Kurpiewski / JUD. / (916) 651-4113
8/20/24 14:59:08

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

SENATE RULES COMMITTEE AB 1843
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1843
Author: Rodriguez (D), et al.
Amended: 8/28/24 in Senate
Vote: 21

SENATE HEALTH COMMITTEE: 11-0, 6/19/24
AYES: Roth, Nguyen, Glazer, Gonzalez, Grove, Hurtado, Limón, Menjivar, Rubio, Smallwood-Cuevas, Wiener

SENATE JUDICIARY COMMITTEE: 11-0, 6/25/24
AYES: Umberg, Wilk, Allen, Ashby, Caballero, Durazo, Laird, Niello, Roth, Stern, Wahab

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 40-0, 8/27/24
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: 69-0, 5/23/24 - See last page for vote

SUBJECT: Emergency ambulance employees

SOURCE: International Association of EMTs and Paramedics
United Steelworkers District 12

DIGEST: This bill requires an ambulance provider to offer all emergency ambulance employees, upon request, peer support services. This bill establishes a structure for the peer support program, including granting employees the right to refuse to disclose confidential information, and providing protection from liability when providing peer support services.

Senate Floor Amendments of 8/28/24 deleted provisions of this bill that increased the number of employer-paid mental health services that emergency ambulance employees are entitled to through an EAP, and also deleted related provisions revising this requirement.

ANALYSIS:

Existing law:

1) Establishes the California Firefighter Peer Support and Crisis Referral Services Act that permits the state or any local or regional public fire agency to establish a peer support and crisis referral program. Provides fire agency emergency services personnel with the right to refuse to disclose confidential information between the emergency service personnel and a peer support team member, and provides protection from liability for fire agencies and their peer support team members for acts, errors, or omissions in performing peer support services. [Government Code (GOV) §8669.05 et seq.]

2) Establishes the Law Enforcement Peer Support and Crisis Referral Program to permit local or regional law enforcement agencies to establish a peer support and crisis referral program that is substantially similar to the program for fire agencies described in 1) above. [GOV §8669.1 et seq.]

This bill:

1) Requires an emergency ambulance provider to offer to all emergency ambulance employees, upon the employee's request, peer support services. Requires the services to provide peer representatives, reflective of the provider's workforce both in job positions and personal experiences, who are available to come to the aid of their fellow employees on a broad range of emotional or professional issues, and requires the emergency ambulance provider to incorporate selection criteria for peer support team members into program policies.

2) Defines various terms for purposes of this bill, including the following:

    a) "Confidential communication" means any information, including written or oral communication, transmitted between an emergency ambulance employee, peer support team member, or a crisis hotline staff member while the peer support team member providers peer support services or the crisis

hotline or crisis referral service staff member providers crisis services and in confidence by a means that, as far as the employee is aware, does not disclose the information to third parties other than those who are present to further the interests of the employee in delivery of peer support services or those to whom disclosures are reasonably necessary for the transmission of the information or an accomplishment of the purposes for which the peer support team member is providing services. Excludes from this definition a communication in which an employee discloses the commission of a crime or a communication that reveals the employee's intent to defraud or deceive an investigation into a critical incident.

b) "Crisis referral services" includes all public or private organizations that provide consultation and treatment resources for personal problems, including mental health issues, chemical dependency, domestic violence, gambling, financial problems, and other personal crises. Excludes crisis referral services or crisis hotlines provided by an employee association, labor relations representative, or labor relations organization, or any entity owned or operated by an employee association, labor relations representative or labor relations organization.

c) "Emergency ambulance employee" means a person who is employed by an emergency ambulance employer, and is an emergency medical technician, dispatcher, paramedic, or other licensed or certified ambulance transport person who contributes to the delivery of ambulance services.

d) "Emergency ambulance provider" means an employer that provides ambulance services, but not including the state, or any political subdivision thereof, in its capacity as the direct employer of a person meeting the definition of an emergency ambulance employee.

e) "Peer support services" means authorized peer support services provided by a peer support team member to emergency ambulance employees and their immediate families affected by a critical incident or the cumulative effect of witnessing multiple critical incidents. Specifies that peer support services assist those affected by a critical incident in coping with critical stress and mitigating reactions to critical incident stress, including reducing the risk of post-traumatic stress and other injuries. Permits peer support services to include any of the following: precrisis education; critical incident stress defusings and debriefings; on-scene support services; one-on-one support

services; consultation; referral services; confidentiality obligations; the impact of stress on health and well-being; grief support; substance abuse approaches; active listening skills; and, psychological first aid.

f) "Peer support team" means a team or teams composed of emergency ambulance employees, hospital staff, clergy, and educators who have completed a peer support-training course.

3) Excludes from the definition of "emergency ambulance provider," a provider that satisfies both of the following:

   a) The provider operates emergency medical services aircraft, as specified; and,
   b) The provider does not operate any ground ambulance services, as specified.

4) Requires a peer support program to be implemented through a labor-management agreement negotiated separately and apart from any collective bargaining agreement, covering affected emergency ambulance employees.

5) Prohibits sessions provided by a peer support program from counting toward the number of mental health treatments per issue required by provisions of the Labor Code enacted by Proposition 11, currently 10 mental health treatments per issue, per calendar year, but would be increased to 20 visits per year by another provision of this bill.

6) Requires an emergency ambulance employee, in any civil, administrative, or arbitration proceeding, whether or not a party to an action, to have the right to refuse to disclose, and to prevent another from disclosing, a confidential communication between the emergency ambulance employee and a peer support team member made while the peer support team member was providing peer support services, or a confidential communication made to a crisis hotline or crisis referral service.

7) Permits, notwithstanding 6) above, a confidential communication to be disclosed only under any of the following circumstances:

   a) The peer support team member reasonably must make an appropriate referral of the emergency ambulance employee to, or consult about the emergency ambulance employee with, another member of the peer support team or a peer support team clinician associated with the peer support team.

b) The peer support team member, crisis hotline, or crisis referral service reasonably believes that disclosure is necessary to prevent death, substantial bodily harm, or commission of a crime.
c) The peer support team member reasonably believes that disclosure is necessary pursuant to an obligation to report instances of child abuse, as specified, or other obligation to disclose or report as a mandated reporter.
d) The disclosure is made pursuant to a court order in a civil proceeding.
e) In a criminal proceeding.
f) If otherwise required by law.
g) The emergency ambulance employee expressly agrees in writing that the confidential communication may be disclosed.

8) Requires a peer support team member, prior to an emergency ambulance employee participating in a peer support program, to inform the emergency ambulance employee, in writing, of the confidentiality provisions in 6) above, and the exceptions to the confidentiality provisions in 7) above.

9) Provides protection from liability for damages, including personal injury, wrongful death, property damage, or other loss related to an act, error, or omission in performing peer support services, for an emergency ambulance employee who provides peer support services as a member of a peer support team and who has received training, as well as the ambulance agency that employs them. Excludes acts, errors, or omissions that constitute gross negligence or intentional misconduct from this liability protection, and additionally specifies that this liability protection does not apply to an action for medical malpractice.

10) Prohibits a peer support team member from providing peer support services if, when serving in a peer support role, the individual's relationship with a peer support recipient could reasonably be expected to impair objectivity, competence, or effectiveness in providing peer support, or otherwise risk exploitation or harm to a peer support recipient.

11) Specifies that whenever possible, a peer support team member should not provide those services to a peer support recipient if the provider and recipient were both involved in the same specific traumatic incident, unless the incident is a large-scale incident.

12) Prohibits a peer support team member from providing peer support services if the provider and recipient are both involved in the same ongoing investigation.

13) Requires a peer support team member to be eligible for the confidentiality protections afforded by this bill, to complete a training course or courses on peer support approved by the emergency ambulance provider that may include the following: precrisis education; critical incident stress defusings and debriefings; on-scene support services; one-on-one support services; referral services; confidentiality obligations; the impact of toxic stress on health and well-being; grief support; substance abuse awareness and approaches; active listening skills; stress management; and, psychological first aid.

Comments

1) *Author's statement.* According to the author, "with over 35 years working in emergency medical services (EMS), I know firsthand the difficulties of being a first responder and encountering traumatic incidents almost daily. We constantly see death and are on the front lines of treating severe injuries and life-threatening conditions. This bill would address these challenges and require additional mental and emotional support programs for private ambulance employees. With this bill, our first responders can focus on recovering and ensuring that Californians get the immediate care they need."

2) *Background on responder peer support.* According to the Substance Abuse and Mental Health Services Administration (SAMHSA), firefighters, law enforcement officers, EMS personnel, and other first responders and disaster responders repeatedly see the aftermath of disasters and other crises. High stress scenarios, threat of personal injury, and inability of any single person to save everyone can take a toll. Stress and posttraumatic stress and substance use disorders may affect first responders at higher rates, and studies suggest that firefighters and EMS personnel may be more likely to think about or die by suicide than the general public. Responder culture can play a role in whether those in need reach out for help or even recognize that the symptoms they are dealing with are a disorder requiring care and treatment. Responders also deal with the same stigma that makes it hard for people in many communities to seek help. They may think asking for help will make them seem not able to do their job, when asking for help is actually a sign of resilience. SAMHSA goes on to state that in peer support programs for responders, responders provide support for each other, and can help responders cope, lower stigma, and build team cohesion. Responders understand stressors their peers face as others may

not, and peers can model healthy behaviors and share information about sources of support.

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

SUPPORT: (Verified 8/5/24)

International Association of EMTs and Paramedics (co-source)
United Steelworkers District 12 (co-source)
American Federation of State, County, and Municipal Employees
California Conference of Machinists
California Correctional Peace Officers Association Benefit Trust
California Professional Firefighters

OPPOSITION: (Verified 8/5/24)

911 Ambulance Provider's Medi-Cal Alliance

ARGUMENTS IN SUPPORT: The United Steelworkers District 12 states that for the EMS locals, the issue of having access to and receiving mental health services is crucial to their well-being. Employers often contract with an EAP provider to prevent and address personal or professional challenges, and that EAPs are critical to the wellbeing of the EMTs and paramedics. Although the 10 sessions provided pursuant to Proposition 11 have helped EMTs and paramedics, those who do not have health insurance cannot appropriately resolve mental illnesses incurred by incidents from the job. The United Steelworkers state that according to guidelines released by the American Psychological Association, it takes 15 to 20 sessions for 50% of patients to begin to recover from PTSD, with some requiring more than 20 sessions to achieve complete symptom remission. Additionally, anecdotal evidence indicates that many EAPs provide services in which counselors have little to no experience with first responders or have no experience with trauma-informed care. As a result, many workers waste their EAP sessions simply finding the right person to assist them.

ARGUMENTS IN OPPOSITION: The 911 Ambulance Provider's Medi-Cal Alliance submitted a letter of opposition to a prior version of this bill based on changes to Proposition 11 from 2018 that changed the requirements for ambulance employer Employee Assistance Plans. Recent amendments have removed those provisions, and it is unclear if the 911 Ambulance Provider's Medi-Cal Alliance remains in opposition.

ASSEMBLY FLOOR: 69-0, 5/23/24
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Connolly, Davies, Flora, Mike Fong, Friedman, Gabriel, Garcia, Gipson, Grayson, Haney, Hart, 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, Rodriguez, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas
NO VOTE RECORDED: Cervantes, Chen, Megan Dahle, Dixon, Essayli, Vince Fong, Gallagher, Holden, Mathis, Luz Rivas, Blanca Rubio

Prepared by: Vincent D. Marchand / HEALTH / (916) 651-4111
8/29/24 16:35:26

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

Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 1893
Author: Wicks (D)
Amended: 8/23/24 in Senate
Vote: 21

SENATE HOUSING COMMITTEE: 7-1, 6/18/24
AYES: Skinner, Blakespear, Caballero, Cortese, Menjivar, Padilla, Umberg
NOES: Ochoa Bogh
NO VOTE RECORDED: Seyarto, Wahab

SENATE LOCAL GOVERNMENT COMMITTEE: 5-1, 7/3/24
AYES: Seyarto, Dahle, Glazer, Skinner, Wiener
NOES: Durazo
NO VOTE RECORDED: Wahab

SENATE APPROPRIATIONS COMMITTEE: 5-1, 8/15/24
AYES: Caballero, Jones, Ashby, Becker, Wahab
NOES: Seyarto
NO VOTE RECORDED: Bradford

ASSEMBLY FLOOR: 54-1, 5/21/24 - See last page for vote

SUBJECT: Housing Accountability Act: housing disapprovals: required local findings

SOURCE: State of California Attorney General Rob Bonta

DIGEST: This bill amends the Housing Accountability Act (HAA) to revise the standards a housing development project must meet in order to qualify for the "Builder's Remedy," which authorizes projects to bypass local development standards in jurisdictions that fail to adopt a substantially compliant housing element. This bill also expands the scope of actions that constitute disapproval of a housing development project by a local government for the purposes of the HAA.

Senate Floor Amendments of 8/23/24 address chaptering conflicts with AB 1413 (Ting. 2024).

ANALYSIS:

Existing law:

1) Provides, pursuant to the HAA that a local government may disapprove a housing development project under specified circumstances. Specifically, among other provisions, the HAA:

    a) Defines "disapprove the housing development project" as any instance in which a local agency does either of the following:

        i) Votes on a proposed housing development project application and the application is disapproved, including any required land use approvals or entitlements necessary for the issuance of a building project.
        ii) Fails to comply with specified time periods for approving or disapproving development projects.
        iii) Fails to make a determination of whether a project is exempt from the California Environmental Quality Act, or commits an abuse of discretion, as specified.

    b) Prohibits a local agency, from disapproving a housing project containing units affordable to very low-, low- or moderate-income households, or conditioning the approval in a manner that renders the housing project infeasible, unless it makes one of the following findings, based upon substantial evidence in the record:

        i) The jurisdiction has adopted an updated housing element in substantial compliance with the law, and the jurisdiction has met its share of the regional housing need for that income category.
        ii) The project will have a specific, adverse impact on public health or safety and there is no feasible method to mitigate or avoid the impact without rendering the housing development unaffordable to very low-, low- or moderate-income households.
        iii) The denial or imposition of conditions is required to comply with state or federal law.
        iv) The project is located on agricultural or resource preservation land that does not have adequate water or wastewater facilities.

v) The jurisdiction has identified sufficient and adequate sites to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.

2) Provides that (1)(b)(v) above cannot be utilized to disapprove or conditionally approve a housing development project if the housing development project is proposed on a site that is identified as suitable or available for lower- or moderate-income households in the jurisdiction's housing element, and consistent with the density specified in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation. This provision is referred to as the "Builder's Remedy."

This bill:

1) Specifies that a local government may not disapprove a "Builder's Remedy project" if the local government's housing element was not in substantial compliance with the HAA on the date the Builder's Remedy project application was deemed complete.

2) Defines "Builder's Remedy project," as a project that meets the following criteria:

a) The project will comply with one of the applicable affordability or project size criteria, specifically:

i) The project includes a percentage of units that are set aside for affordable housing for a period of 55 years for rental units, and 45 years for ownership. Specifically a project must meet any of the following:

(1) 100% of the units, excluding the managers unit are affordable to lower income households, as specified.
(2) 7% of the units are affordable to extremely low-income households, as specified.
(3) 10% of the units are affordable to very low-income households, as specified.
(4) 13% of the total units are affordable to lower income households, as specified.
(5) 100% of the total units are affordable to moderate income households, as specified.

ii) In lieu of meeting affordability criteria noted above, or local affordability requirements, as applicable, a project may meet the following:

(1) The project contains 10 or fewer units.
(2) The project is located on a site that is smaller than one acre.
(3) The project density exceeds 10 units per acre (4,356 square feet per unit or less).

b) The project meets specified density requirements.

c) The project does not abut a site where more than one-third of the square footage on the site has been used by a heavy industrial use in the past three years.

3) Provides that the following apply to the approval of Builder's Remedy projects.

a) Local governments may only require a project proposed by an applicant to comply with written objective standards and policies that would have applied to the project if it was proposed on a site that allowed the density and unit type proposed by the applicant. If the local agency does not have applicable standards for the project, the development proponent may identify and apply written objective standards and policies associated with a general plan designation and zoning that facilitates the project's density and unit type, as specified.
b) Local governments are precluded from imposing standards, conditions, or policies that render the project infeasible, as specified.
c) Builder's Remedy projects are not required to receive any additional approval or permit, or be subject to additional requirements including increased fees, as specified, solely because the project is a Builder's Remedy project.
d) Builder's Remedy projects shall be deemed consistent, compliant, and in conformity with applicable local plans and standards, as specified.

4) Expands the scope of local government activities that constitute a local government taking action to "disapprove the housing development project," to include when a local government does the following:

a) Takes a final administrative action, other than a vote of the legislative body, on a project.

b) Violates development review standards of the Housing Crisis Act that limit the number of hearings, including limitations on the number of hearings a local agency may conduct in its review of the development proposal.

c) Undertakes a course of conduct that effectively disapprove the housing development project, as specified.

Comments

1) *Author's Statement.* According to the author, "It is going to take all of us to solve our housing crisis, and AB 1893 will require all cities and counties to be a part of the solution. It does so by modernizing the builder's remedy to make it clear, objective, and easily usable. A functional builder's remedy will help local governments to become complaint with housing element law. Where they do not, it will directly facilitate the development of housing at all affordability levels. The message to local jurisdictions is clear — when it comes to housing policy, the days of shirking your responsibility to your neighbors are over."

2) *HAA Background.* In 1982, in response to the housing crisis, which was viewed as threatening the economic, environmental, and social quality of life in California, the Legislature enacted the HAA, commonly referred to as the Anti-NIMBY Law. The purpose of the HAA is to help ensure that a city does not reject or make infeasible housing development projects that contribute to meeting the housing need determined pursuant to the Housing Element Law without a thorough analysis of the economic, social, and environmental effects of the action and without complying with the HAA. The HAA restricts a city's ability to disapprove, or require density reductions in, certain types of residential projects.

3) *The Builder's Remedy.* One constraint within the HAA on local governments' authority to disapprove housing, which has gained recent attention, is the "Builder's Remedy." The Builder's Remedy prohibits a local government that has failed to adopt a compliant housing element from denying a housing development that includes 20% lower-income housing or 100% moderate-income housing even if the development does not conform to the local government's underlying zoning.

   The Builder's Remedy is intended to push local governments to adopt timely compliant housing elements to avoid the threat of a developer putting forward a project that is untethered to local standards. Short of that, the Builder's Remedy is intended as a mechanism to facilitate the development of much

needed housing in California by allowing developers to design projects at nearly any density or size they like provided that they set aside a portion of the units for affordable housing.

4) *Affordability Requirements.* This bill reduced from 20% to 13% the amount of housing affordable to lower-income households that a development must include to qualify as a Builder's Remedy project. According to the author, the intent of these changes are to strike a balance on affordability standards and allow more projects to move forward. While lowering affordability standards requires careful examination, it is notable that over three decades with the existing affordability standard in place no projects have been developed.

5) *HAA Limitations on Disapproving Projects.* The HAA requires that a local government cannot disapprove a housing development project that is consistent with the jurisdiction's zoning ordinance and general plan designation, unless the preponderance of evidence shows that certain conditions are met. This provision defines what would constitute denial of a Builder's Remedy project, as well as other HAA protected developments, and thus a violation of the HAA subject to enforcement. The HAA currently specifies certain actions by a local government that individually or collectively constitute a local government "disapproving" a project. This bill expands the scope of local government actions that constitute disapproval of a project to include instances where a local government "effectively disapproves" a project through sustained inaction or the imposition of burdensome processing requirements. It is likely that the ultimate scope of this provision would be litigated by developers and local governments.

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

According to the Senate Appropriations Committee:

- The Department of Housing and Community Development (HCD) indicates that the workload associated with this bill would not necessitate the addition of a full PY of new staff, but notes that the bill would impose new workload to provide technical assistance to local agencies, developers, and other stakeholders, and to process case complaints from developers, housing advocates, and legal organizations. Depending on the volume of technical assistance requests and increased complaints regarding violations of the HAA, staff estimates HCD could incur ongoing annual costs in the range of $50,000 to $150,000 for staff time associated with this workload. (General Fund)

- Unknown, potentially significant cost pressures due to increased court workload to adjudicate additional cases filed under the HAA as a result of the expansion of projects to which the HAA would apply and the expanded definition of what constitutes disapproval of a project. Staff notes that, in addition to cases referred to the Attorney General by HCD to enforce violations of the HAA, eligible litigants include, project applicants, persons who would be eligible to reside in a proposed development, and specified housing organizations. (Special Fund – Trial Court Trust Fund, General Fund). See Staff Comments.

- Unknown local mandated costs. While the bill would impose new costs on local agencies to revise planning requirements and considerations for builder's remedy housing developments, these costs are not state-reimbursable because local agencies have general authority to charge and adjust planning and permitting fees to cover their administrative expenses associated with new planning mandates. (local funds)

SUPPORT: (Verified 8/21/24)

State of California Attorney General Rob Bonta (source)
Abundant Housing LA
BuildCasa
California Apartment Association
California Building Industry Association
California Community Builders
California Housing Consortium
California YIMBY
Chamber of Progress
Circulate San Diego
CivicWell
Fieldstead and Company, INC.
Habitat for Humanity California
Housing Action Coalition
Housing Trust Silicon Valley
Inner City Law Center
LeadingAge California
League of Women Voters of California
Sand Hill Property Company
SPUR
The Two Hundred

OPPOSITION: (Verified 8/21/24)

Act-LA
California Cities for Local Control
California Coalition for Rural Housing
California Contract Cities Association
California Rural Legal Assistance Foundation, INC.
Catalysts for Local Control
Cities Association of Santa Clara County
City of Lafayette
City of Lake Forest
City of Norwalk
City of Rancho Palos Verdes
City of Rolling Hills Estates
Communities for a Better Environment
Corporation for Supportive Housing
Council of Infill Builders
Disability Rights California
East Bay Housing Organizations
East Bay YIMBY
Esperanza Community Housing Corp
Grow the Richmond
Housing California
Leadership Counsel for Justice & Accountability
League of California Cities
Marin County Council of Mayors & Council Members
Mission Economic Development Agency (MEDA)
Mountain View YIMBY
Movement Legal
Napa-Solano for Everyone
National Housing Law Project
Northern Neighbors
Peninsula for Everyone
Pico California
Progress Noe Valley
Public Advocates INC.
Public Counsel
Public Interest Law Project
San Francisco YIMBY
San Luis Obispo YIMBY
Santa Cruz YIMBY

Santa Rosa YIMBY
Save Lafayette
South Bay YIMBY
Southern California Association of Nonprofit Housing
Southside Forward
Streets for People
SV@Home Action Fund
The Children's Partnership
The Public Interest Law Project
The Race and Equity in All Planning Coalition
Town of Apple Valley
Urban Environmentalists
Urban Habitat
Ventura County YIMBY
Western Center on Law & Poverty, INC.
YIMBY Action
YIMBY Law
Young Community Developers

ASSEMBLY FLOOR: 54-1, 5/21/24
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Berman, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Chen, Flora, Mike Fong, Vince Fong, Garcia, Gipson, Grayson, Haney, Hart, Hoover, Jackson, Jones-Sawyer, Kalra, Lee, Low, Lowenthal, Maienschein, McCarty, McKinnor, Stephanie Nguyen, Ortega, Papan, Jim Patterson, Joe Patterson, Pellerin, Quirk-Silva, Ramos, Reyes, Rodriguez, Blanca Rubio, Santiago, Schiavo, Soria, Ting, Villapudua, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas
NOES: Essayli
NO VOTE RECORDED: Bauer-Kahan, Bennett, Boerner, Cervantes, Connolly, Megan Dahle, Davies, Dixon, Friedman, Gabriel, Gallagher, Holden, Irwin, Lackey, Mathis, Muratsuchi, Pacheco, Petrie-Norris, Rendon, Luz Rivas, Sanchez, Ta, Valencia, Waldron, Wallis

Prepared by: Hank Brady / HOUSING / (916) 651-4124
8/25/24 12:49:29

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

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

THIRD READING

Bill No: AB 2041
Author: Bonta (D), et al.
Amended: 8/22/24 in Senate
Vote: 27 - Urgency

SENATE ELECTIONS & C.A. COMMITTEE: 7-0, 6/11/24
AYES: Blakespear, Nguyen, Allen, Menjivar, Newman, Portantino, Umberg

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 72-0, 4/25/24 - See last page for vote

SUBJECT: Political Reform Act of 1974: campaign funds: security expenses

SOURCE: Author

DIGEST: This bill authorizes an unlimited amount of campaign funds to be used for costs related to security expenses to protect a candidate, elected official, or a member of their immediate family or their staff.

Senate Floor Amendments of 8/22/24*:*

1) Add Senator Ashby as a co-author;
2) Place a lifetime $10,000 cap on security expenses;
3) Eliminate the ability to hire a family member who runs a security business; and
4) Require a candidate or elected official who wants to spend campaign funds on security expenses to submit a form to the FPPC – signed under the penalty of perjury – that describes the threat or potential threat.

ANALYSIS:

Existing law:

1) Creates the Fair Political Practices Commission (FPPC), which is responsible for the impartial, effective administration and implementation of the Political Reform Act (PRA).

2) Requires campaign expenses to be reasonably related to a political, legislative, or governmental purpose.

3) Allows campaign funds to be used for security purposes as long as:

   a) The money is spent to install and/or monitor an electronic security system;
   b) The money is spent on a system to protect a candidate or elected official;
   c) The need for the system is based on threats made against a candidate or an elected official and the threats arise from their activities, duties, or status as a candidate or elected official;
   d) Those threats have been reported to and verified by law enforcement;
   e) The spending is capped at $5,000 (a figure set by SB 771 (Rosenthal, 1993));
   f) The spending is reported to the FPPC and the report includes:

      i) The date the candidate or elected official informed the law enforcement agency of the threat;
      ii) The name and phone number of the law enforcement agency; and
      iii) A brief description of the threat.

   g) If/When the security system is sold and/or the house or office where the security system is located is sold, the pro-rata share of the sale of the security system is paid back to the campaign.

This bill:

1) Expands the ability to spend campaign funds for security purposes by changing current law in the following fashion:

a) The money, aside from being spent to install and/or monitor an electronic security system, can also be spent on the "reasonable costs of providing personal security";
b) The money, aside from being spent to protect a candidate or an elected official, can also be spent to protect the immediate family or staff of an elected official or candidate;
c) The need for the system is based on threats made against a candidate or an elected official and the threats arise from their activities, duties, or status as a candidate or elected official or from their position as a staffer to the candidate or elected official;
d) The current law requirement for the threats to be reported to and verified by law enforcement is deleted by this bill.
e) The current law capping spending at $5,000 is raised by this bill to $10,000 over the lifetime of the candidate or elected official.
f) The current law requirement to report to the FPPC when the threat was reported to law enforcement, the name and number of the agency it was reported to, and a brief description of the threat is deleted by this bill. However, the spending would still have to be reported to the FPPC as part of a candidate's or an elected official's annual reporting requirement. Furthermore, each report would have to contain a form – signed under penalty of perjury – that describes and verifies the threat or potential threat that triggered the need to spend campaign funds for security services. Finally, the candidate or elected official would have to maintain records of evidence of the threat.
g) Instead of requiring the campaign to be reimbursed if and when the electronic security system is sold, the bill requires a security system or any security-related tangible item to be returned or reimbursed to the committee that paid for it.

   The return or reimbursement must occur within one year of the elected official leaving office or when a candidate is no longer a candidate for the office for which the security system was purchased. Alternatively, if the property where any security system was installed is sold prior to that one-year deadline, the reimbursement must occur at that time. These deadlines can be extended if there is a continuing threat to the physical safety of the candidate or elected official that relates to their activities, duties, or status as

a candidate or elected official and the threat has been reported to and verified by an appropriate law enforcement agency. In this case, return or reimbursement is due within one year of when the threat verified by the law enforcement agency ceases.

2) Specifies "security expenses" do not include payments to a relative, within the third degree of consanguinity of a candidate or elected official.

3) Specifies "security expenses" do not include payments for a firearm.

4) Requires candidates or elected officials to pay for the reimbursement themselves if the security system was installed for their protection. In cases where the system was installed for the protection of an immediate family member or staff member of the candidate or elected official, the reimbursement can be made by the immediate family member, the staff member, the candidate, or the elected official.

5) States the immediate family or staff of the candidate or elected official are not personally liable for the reimbursement of any expenses incurred for security expenses.

6) Requires a candidate or elected official, as part of recordkeeping requirements, to maintain detailed accounts, records, bills, and receipts related to any spending or reimbursement for expenses related to security, including records containing evidence of the threat or potential threat to safety that gave rise to the need for the security.

7) Contains an urgency clause, allowing this bill to take effect immediately if it is signed into law.

Background

Growing Threats to Candidates and Elected Officials. According to a 2022 "Time" magazine article, there has been a surge of harassment, attacks, and violent threats targeting public officials and their families in the United States. Some episodes of violence have made national headlines, including the insurrection in the United States Capitol on January 6, 2021, and the October 2022 break-in at the San Francisco home of then-Speaker of the U.S. House of Representatives Nancy Pelosi.

While these episodes are dramatic examples of the threats public officials and their families and staff can face, the article notes many episodes of harassment of public officials are actually constitutionally protected free speech. As a result, public officials and candidates are left to comb through angry threats to try to determine which ones are true threats to their safety or to the safety of their families and staff.

The "Time" article reported the spike in violent threats has strained state and local budgets, leading many public entities to take steps such as hiring armed guards, installing bulletproof glass, and investing in trauma counseling. Furthermore, time and resources are being devoted to items such as active-shooter trainings along with monitoring emails and phone calls for threatening messages that might have to be reported to law enforcement.

National Database. In April 2024, Princeton University's Bridging Divides Initiative (BDI) released its threats and harassment dataset (THD), a first-of-its-kind dataset capturing hostility towards local officials in the United States. The longitudinal event-based data tracks the rate, frequency, types, and targets of threats and harassment faced by a wide range of local officials around the country, from elected officials at the municipal, county, and township level to appointed officials and election workers.

The dataset contains more than 750 unique observations of threats or harassment from January 2022 to March 2024, based on information gathered from traditional media, open-source monitoring, and a network of data contributors. Among the key trends identified by the BDI:

- A threat or harassment event targeting a local official has been reported in nearly every state since 2022;

- Reported events are on the rise overall, with an increase in threats and harassment from 2022 to 2023;

- Threats and harassment are becoming increasingly normalized. While elections and a person's level of education are primary motivating factors in targeting, other issues like hyper-local and individual grievances drive significant rates of hostility towards officials; and

- In 2023, 56% of events were related to grievances other than elections and education issues – such as LGBTQ+ issues; hyper-local grievances such as public infrastructure; rulings in individual legal cases (e.g. family court cases) or parking ticket disputes; and public safety – up from approximately 36% in 2022.

Comments

1) *Expanding the Use of Campaign Funds While Reducing Verification.* This bill expands the ability of candidates and elected officials to spend campaign funds for security purposes by allowing them to:

   - Provide security to staff and immediate family members, not just to themselves;
   - Purchase not just electronic security and/or monitoring systems, but also to hire personal security; and
   - Spend up to $10,000 in campaign funds over their lifetime, regardless or what office or offices they may run for or hold.

   At the same time, the bill alters the requirements in current law designed to help determine if the spending on security is tied to threats made against a candidate or elected official based on their actions as a candidate or elected official. AB 2041 does this by eliminating current law requirements to:

   - Report any threats to and have those threats verified by law enforcement; and
   - Report to the FPPC the date the threats were reported to law enforcement, the name and number of the official they were reported to, and a brief description of the threat.

   However, the most recent amendments to the bill added a requirement for the candidate or elected official to sign – under penalty of perjury – a form provided by the FPPC that describes and verifies the threat or potential threat that triggered the need to spend campaign funds for security services.

3) *Returning vs. Reimbursing.* Under current law, a candidate or elected official is required to reimburse the campaign for the cost of the electronic security system when the system is sold or the property containing the system is sold.

   This bill allows the candidate to choose to return the security system – or other tangible item related to security – to the campaign committee instead of reimbursing the committee for the cost of the items.

   There is no definition for "tangible item related to security" in the bill (though the bill does state a firearm is not a covered security expense). As such, it is certainly possible to envision a scenario where a candidate or elected official

could return used locks, tasers, pepper spray, doorbell cameras, and other items to a campaign committee instead of reimbursing the committee for the costs of those items.

4) *You Look Very Familiar*. This bill is very similar to AB 37 (Bonta, 2023) which was vetoed by Governor Newsom. The veto message stated in relevant part:

> "While I support the author's intention, the bill as drafted does not clearly define 'security expenses.' Without more guidance on what would or would not be allowed as a legitimate use of campaign funds, this bill could have unintended consequences and could lead to use of political donations for expenditures far beyond what any reasonable donor would expect. We must ensure political donations are utilized in a manner consistent with their intended purpose."

Related/Prior Legislation

AB 37 (Bonta, 2023) was virtually identical to this measure. It was vetoed by Governor Newsom.

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

SUPPORT: (Verified 8/22/24)

CFT – A Union of Educators & Classified Professionals, AFT, AFL-CIO
City of Norwalk
Courage California
District Attorney of Orange County
Fair Political Fair Practices Commission
Hispanic Organization for Political Equality
League of California Cities
Thousand Oaks City Council

OPPOSITION: (Verified 8/22/24)

None received

ASSEMBLY FLOOR: 72-0, 4/25/24
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Chen, Connolly, Davies, Dixon, Essayli, Flora, Mike Fong,

Friedman, Gabriel, Garcia, Gipson, Grayson, Haney, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Rendon, Reyes, Luz Rivas, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wilson, Wood, Zbur, Robert Rivas

NO VOTE RECORDED: Megan Dahle, Vince Fong, Gallagher, Hart, Mathis, Jim Patterson, Joe Patterson, Wicks

Prepared by: Evan Goldberg / E. & C.A. / (916) 651-4106
8/25/24 12:49:33

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

SENATE RULES COMMITTEE AB 2095
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2095
Author: Maienschein (D)
Amended: 8/28/24 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 11-0, 6/25/24
AYES: Umberg, Wilk, Allen, Ashby, Caballero, Durazo, Laird, Niello, Roth, Stern, Wahab

ASSEMBLY FLOOR: 73-0, 5/21/24 - See last page for vote

SUBJECT: Publication: newspapers of general circulation

SOURCE: California News Publishers Association

DIGEST: This bill (1) requires public notices that are legally required to be printed in a newspaper of general circulation to also be published in the newspaper's internet website or electronic newspaper and on the statewide internet website maintained as a repository for notices by a majority of California newspapers of general circulation; (2) prohibits a newspaper from charging a fee or surcharge specifically to access public notices on their internet website, and provides that the newspaper in which the notice is published is responsible for publishing notices on the statewide internet website; and (3) prohibits the statewide internet website from selling or sharing the personal information of consumers or using it for any purposes other than those explicitly outlined.

Senate Floor Amendments of 8/28/24, exempt a newspaper of general circulation that has five or fewer employees from the requirement to post a public notice on its internet website or electronic newspaper or on the statewide website until January 1, 2028.

ANALYSIS:

Existing law:

1) Provides that whenever any official advertising, notice, resolution, order, or other matter of any nature whatsoever is required by law to be published in a newspaper, such publication is to be made only in a newspaper of general circulation. (Gov. Code § 6040.)

2) Provides that a newspaper qualifies as a newspaper of general circulation if it meets all of the following criteria:

   a) It is a newspaper published for the dissemination of local or telegraphic news and intelligence of a general character, which has a bona fide subscription list of paying subscribers and has been established and published at regular intervals of not less than weekly in the city, district, or public notice district for which it is seeking adjudication for at least three years preceding the date of adjudication;
   b) It has a substantial distribution to paid subscribers in the city, district, or public notice district in which it is seeking adjudication;
   c) It has maintained a minimum coverage of local or telegraphic news and intelligence of a general character of not less than 25 percent of its total inches during each year of the three-year period; and
   d) It has only one principal office of publication and that office is in the city, district, or public notice district for which it is seeking adjudication. (Gov. Code § 6008(a)(4).)

3) Provides that whenever a newspaper desires to have its standing as a newspaper of general circulation ascertained and established, it may, by its publisher, manager, editor or attorney, file a verified petition in the superior court of the county in which it is established, printed and published, setting forth the facts which justify such action. (Gov. Code § 6020.)

4) Provides that all publications made in a newspaper during the period it was adjudged to be a newspaper of general circulation are valid and sufficient. (Gov. Code § 6025.)

5) Specifies that whenever any law provides that publication of a notice is required, that notice must be published in a newspaper of general circulation for the period prescribed, the number of times, and in the manner provided in that statute.

a) Provides that notice includes official advertising, resolutions, orders, or other matter of any nature whatsoever that are required by law to be published in a newspaper of general circulation. (Gov. Code § 6060.)

6) Requires public notice in a newspaper of general circulation to notify about a wide range of legal events of interest to the public, including, among others:

a) public hearings related to matters such as land use, zoning changes, and environmental impact reports. (see Gov. Code § 50485.5 (airport zoning), Health and Saf. Code §33679 (community redevelopment), Health and Saf. § 25242(b)(4) (hazardous waste);
b) election notices. (see Elec. Code § 9303 (initiative), § 12105 (pre-election notices), § 5200 (disqualification of political parties); § 11022 (notice of intent to recall);
c) foreclosure notices (Civ. Code § 2924f(b)(2));
d) lien sale of personal property in self-service storage facilities. (Bus. & Prof. Code § 21707(a)); and
e) name changes (Code of Civ. Proc. § 1277(a)(2).)

This bill:

1) Provides that when any public notice is legally required by a statute, ordinance, bylaw, or judicial order to be published in a newspaper of general circulation, that notice shall be published in and on all of the following:

a) the newspaper's print publication;
b) the newspaper's internet website or electronic newspaper available on the internet; and
c) the statewide internet website maintained as a repository for notices by a majority of California newspapers of general circulation, as described in this article.

i) The newspaper in which the notice is published is responsible for publishing notices on a statewide internet website.

2) Exempts a newspaper of general circulation that has five or fewer employees from the requirement to post a public notice on its internet website or electronic newspaper or on the statewide website until January 1, 2028.

3) Requires a newspaper publishing a notice that has an internet website operated by that newspaper to also place the notice on its internet website and on the statewide internet website maintained by an entity with the capacity to receive and upload legal notices from the majority of newspapers in this state as a repository for the notices.

    a) Requires posting on an internet website to begin on the first day of placement on the internet website and is to run continuously until the expiration of the specified time legally required for that type of notice.
    b) Each notice required to be placed on the newspaper's internet website remains valid if it meets all of the requirements of these provisions, and the legality of the newspaper publication is not to be affected by the failure of the newspaper for any reason to upload legal notice publications to the statewide internet website or to another internet website or to accurately post the notice publication on any internet website.

4) Provides that if a newspaper does not maintain its own internet website, publication on the statewide internet website and reference to the statewide internet website in the print publication notice satisfies the requirement of publication on the newspaper's internet website.

5) Provides that an error in the legal notice published on a newspaper's internet website or the statewide internet website that is a result of either (i) an error of the internet website operator, or (ii) a temporary internet website outage or service interruption that prevents the publication or display of a legal notice on the internet website does not constitute a defect in publication of the legal notice, so long as the legal notice appears correctly in the newspaper's print publication and satisfies all other legal notice requirements.

    a) Failure to post or maintain a public notice on the newspaper's internet website or to post a public notice on the statewide public notice internet website does not affect the validity of the public notice.

6) Prohibits a newspaper or the statewide repository from charging a fee or surcharge specifically to access public notices on their internet website.
    a) Prohibits a newspaper from charging an additional fee or surcharge for posting to the statewide repository site.

7) Prohibits the statewide internet website from selling or sharing the personal information of consumers or using it for any purposes other than those explicitly outlined.

8) Makes the following findings and declarations:

   a) For more than 100 years, the public has relied on newspapers to publish public notices informing our communities about public agency hearings, design reviews, school board budgets, trustee sales, estate administration petitions, fictitious business names, and hundreds of other important legal events of interest to the public.
   b) Through public notices that appear in legally adjudicated newspapers, the state has reached all corners of California, from sparsely populated rural areas to large urban enclaves.
   c) Public notices placed in local and ethnic newspapers have informed many diverse communities across the state and ensured access to key information about our state and local governments, citizens, and legal systems.
   d) As part of expanding public access to public notices, members of the public shall by law gain access to public notices on newspaper internet websites and a statewide internet website, currently capuyblicnotce.com, that is maintained as a joint venture of the majority of California newspapers and contains a searchable repository of state and local public notices.
   e) At the same time, it is important to maintain access to public notices for the millions of individuals who rely on newspapers to learn about matters of public interest.
   f) Online delivery of public notices to newspaper internet websites will ensure that Californians who rely on the internet for information will have the opportunity to access public notices, while newspaper delivery of public notices will ensure that the many diverse, local, and elderly readers of newspapers will also have access to this critical public information.

Comment

The Senate Judiciary Committee held an informational hearing on December 5, 2023 regarding the Importance of Journalism in the Digital Age. The background paper provides an in depth examination of the myriad issues facing journalism today amidst the rise of digital news.[1] Since 2005, the country has lost more than

[1] *Importance of Journalism in the Digital Age*, Sen. Jud. Comm. Info. Hearing, Dec. 5, 2023, available **at** https://sjud.senate.ca.gov/sites/sjud.senate.ca.gov/files/background_paper_-_the_importance_of_journalism_in_the_digital_age_dec_5_2023_sjud_hearing.pdf.

25 percent of its newspapers, or over 2,500 publications.[2] Today, Americans consume their news on digital devices rather than in print by a significant margin: according to the Pew Research Center, as of 2022, 49 percent of U.S. adults often, and 33 percent sometimes, got their news from digital devices, while 8 percent of adults often, and 25 percent sometimes, got their news from print publications.[3] California News Publishers Association, the sponsor of the bill, writes that:

> The news media is in a critical transition. Our members have embraced new delivery models, while maintaining traditional revenue streams that serve our readers. Between 2008 and 2018, there was a national 68% decrease in advertising revenue, and almost two dozen daily papers closing in California in the last five years. Maintaining public notice under current framework with adding online publication of notices will help ensure news publishers can rely on this revenue stream as they contemplate other distribution methods to meet readers where they are.

The sponsor of the bill points out that over the last several years, bills have been introduced and enacted that move several historic public notice requirements to either government or private websites. For example, AB 721 (Valencia, Ch. 811; Stats., 2023) repealed, as of January 1, 2027, the requirement that the county superintendent publish notice of the date, time, and location of the scheduled public hearing on the proposed school district budget in a newspaper of general circulation and instead only requires the notice to be published on the website of the school district. The author and sponsor argue that newspapers of general circulation remain the most effective means to convey public notices because they are legally deemed to reach a "substantial" number of readers in the area. The author and sponsor believe this bill modernizes the tradition of public notice by establishing a framework for online publication and mandating its use, while at the same time preserving the traditional requirement of print publication.

Under the bill, public notices that are legally required to be published in a newspaper of general circulation would also be required to be posted to both the newspaper's website, if they have one, and to an online statewide repository. The bill exempts newspapers that have five or fewer employees from this requirement until January 1, 2028. The requirement to post a notice online is the responsibility of the newspaper that the member of the public submits the notice for publication

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[2] Abernathy, The State of Local News 2022, Northwestern Medill Local News Initiative (Jun. 29, 2022), https://localnewsinitiative.northwestern.edu/research/state-of-local-news/report/.

[3] Forman-Katz & Matsa, News Platform Fact Sheet, Pew Research Center (Sept. 20, 2022), https://www.pewresearch.org/journalism/fact-sheet/news-platform-fact-sheet/.

to, so no additional requirements or duties are placed on the public than they already have under existing law when publishing a notice. The bill contemplates that the online statewide repository will be one website that is operated and maintained by a majority of California newspapers of general circulation. The online statewide repository is to be accessible for no cost and is to be searchable by users. The bill would prohibit a newspaper from charging a fee to specifically access public notices published on their website, but allows them to charge for general access to their online website (commonly known as a paywall) including public notices.

The bill builds in guardrails to ensure any issues related to a notice being published online does not affect the sufficiency of the notice included in a print publication, by providing that the public notice remains valid if it otherwise meets the print publication requirements If a newspaper does not maintain its own internet website, publication on the online statewide repository and reference to repository's website in the print publication notice will satisfy the requirement of publication on the newspaper's website under the bill. In order to ensure privacy protections are extended to users of the statewide repository, the bill prohibits the statewide internet website from selling or sharing the personal information of consumers or using it for any purposes other than those explicitly outlined.

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

SUPPORT: (Verified 8/28/24)

California News Publishers Association (source)

OPPOSITION: (Verified 8/28/24)

California Black Media

ARGUMENTS IN SUPPORT: The author writes:

> For well over a century, newspapers have been crucial in sharing important public notices. In California, these notices inform people about important legal events like hearings and petitions. This bill aims to update how these notices are shared, ensuring they're accessible both in print and online. By setting up regulations for newspapers to follow and having no extra fees for accessing these notices online, we're ensuring everyone can easily find this vital information. This bill ensures Californians stay informed about what is happening in their communities, whether they prefer reading newspapers or using the internet. Newspapers of general circulation remain the most effective

> way to convey public notices because they are legally deemed to reach a "substantial" number of readers in the area. This will ensure that transparency is kept within public notices within the state of California.

The sponsors of this measure, the California News Publishers Association, write in support stating:

> Newspapers of general circulation are adjudicated and have been defined in California law for decades. They are certified as the link to cities, counties, and public notice districts, which are geographically designated areas where certain decisions and events must be made known to residents. Such notices include government meetings and budget votes, opportunities for citizen participation, court notices, contract bids, and unclaimed property, among many.
>
> Due to newspapers' roles in their communities and adjudication standards, they have been the trusted platform of record for legally required public notices. However, the actions of some industries and states have pushed to move public notice from trusted newspapers to private or government, non-adjudicated websites with no standards or certifications. It is imperative we maintain news sources as the neutral and trusted source for Californians to be made aware of important information and events. […]
>
> Notices are a critical conduit of information about the government to the public and allow residents to monitor the actions of their elected officials. Newspapers, and more recently their associated news websites, have been the historically independent provider of such information. Millions of Californians still rely on home-delivered newspapers or their electronic editions for news and information. Maintaining notice in this adjudicated framework ensures no conflicts of interest in publishing important public information.
>
> Attempts to move notices to government or private websites assume the public will have access to internet and will know which private or government entity website to search for agendas and other documents. With adjudicated newspapers as the single source for decades, the public can go to one trusted source for these notices. Notice standards that have existed for decades and we urge the Legislature to ensure that information is readily available and published with the same high standard.

ARGUMENTS IN OPPOSITION: The California Black Media writes in opposition, stating:

> While we understand the intent of AB 2095 to modernize the dissemination of public notices, for small publications, like California Black Media members, the bill places an additional requirements that adds an unnecessary burden.
>
> Ethnic media plays an important form of journalism and communication, and that it plays a crucial role in informing, involving, and championing communities that often lack coverage from mainstream media, whether for profit or nonprofit. We continue to work with the author's office to address our concerns with AB 2095, and would like to see further amendments at the earliest next stages to allow small publications the ability to opt-out of this requirement to ensure that AB 2095 does not create an undue burden to small and ethnic media.

ASSEMBLY FLOOR: 73-0, 5/21/24
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Chen, Connolly, Davies, Dixon, Essayli, Flora, Mike Fong, Vince Fong, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Jim Patterson, Joe Patterson, 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: Cervantes, Megan Dahle, Friedman, Gabriel, Holden, Mathis, Pellerin

Prepared by: Amanda Mattson / JUD. / (916) 651-4113
8/29/24 16:35:27

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

Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 2107
Author: Chen (R)
Amended: 8/20/24 in Senate
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 12-0, 6/24/24
AYES: Ashby, Nguyen, Alvarado-Gil, Archuleta, Becker, Dodd, Eggman, Glazer, Menjivar, Niello, Smallwood-Cuevas, Wilk
NO VOTE RECORDED: Roth

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/5/24
AYES: Caballero, Jones, Ashby, Becker, Bradford, Seyarto, Wahab

ASSEMBLY FLOOR: 69-0, 5/23/24 - See last page for vote

SUBJECT: Clinical laboratory technology: remote review

SOURCE: California Society of Pathologists

DIGEST: This bill authorizes pathologists who primarily perform pathology services at a licensed laboratory, are acting within their scope of practice, and review digital data, results, and images, to do so from a temporary remote site with access to a private network or other secured method so long as no laboratory equipment is needed.

Senate Floor Amendments of 8/20/24 make conforming changes to provide the California Department of Public Health (CDPH) approval authority for the remote pathologist service upon the finding that there is no conflict with CLIA.

ANALYSIS:

Existing law:

1) Defines "CLIA" as the federal Clinical Laboratory Improvement Amendments of 1988 and the relevant regulations adopted by the federal Health Care

Financing Administration that are also adopted by the CDPH. (Business and Professions Code (BPC) § 1202.5(a))

2) Regulates clinical laboratories and the performance of clinical laboratory tests through the licensing of clinical laboratories and laboratory directors, scientists, and other laboratory personnel under the CDPH and CLIA. (BPC §§ 1200-1327)

3) Defines "clinical laboratory test or examination" means the detection, identification, measurement, evaluation, correlation, monitoring, and reporting of any particular analyte, entity, or substance within a biological specimen for the purpose of obtaining scientific data that may be used as an aid to ascertain the presence, progress, and source of a disease or physiological condition in a human being, or used as an aid in the prevention, prognosis, monitoring, or treatment of a physiological or pathological condition in a human being, or for the performance of nondiagnostic tests for assessing the health of an individual. (BPC § 1206(a)(5))

4) Defines "clinical laboratory" as a place or organization used for the performance of clinical laboratory tests or examinations or the practical application of the clinical laboratory sciences. (BPC § 1206(a)(8))

5) Requires every clinical laboratory to have a laboratory director who is responsible for the overall operation and administration of the clinical laboratory, including (1) administering the technical and scientific operation of a clinical laboratory, the selection and supervision of procedures, the reporting of results, and active participation in its operations to the extent necessary to ensure compliance with state clinical laboratory laws and CLIA, (2) the proper performance of all laboratory work of all subordinates, and (3) employing a sufficient number of laboratory personnel with the appropriate education and either experience or training to provide appropriate consultation, properly supervise and accurately perform tests, and report test results in accordance with the personnel qualifications, duties, and responsibilities described in CLIA and state clinical laboratory laws. (BPC § 1209(d)(1))

This bill:

1) Authorizes pathologists who primarily perform pathology services at a licensed laboratory and who are acting within their scope of practice to review digital

clinical laboratory data, digital results, and digital images at a remote location under a primary site's CLIA certificate if CLIA requirements are met.

2) Defines "digital materials" as digital laboratory data, digital results, and digital images that do not require a microscope or other equipment essential to a separate laboratory

3) Requires remote review of digital materials to be conducted on virtual private networks or other secure method

4) Limits remote review to digital materials for which no other laboratory equipment is required.

Background

During the COVID-19 public health emergency, the federal Department of Health & Human Services, Centers for Medicare & Medicaid Services (CMS) announced a policy authorizing pathologists to review pathology slides and digital data, results, and images remotely. Upon conclusion of the public health emergency, CMS removed authorization for the remote review of physical slides, but continued to permit remote review of digital data, results, and images, including that of slides.

At both the federal and state level, a facility or location where people perform laboratory tests on human specimens for diagnostic or assessment purposes must be certified under CLIA. While CLIA establishes the minimum standards under federal law, it allows states to establish more stringent requirements. The purpose of CLIA and the state requirements is to minimize the risk of incorrect or unreliable results, patient harm during testing, and improper diagnoses, among other things. Laboratories are licensed and regulated by the California Department of Public Health.

Requiring laboratory tests reviews that do not need specialized laboratory equipment and only encompass digital review, which would be conducted on a computer inside a lab requires personnel to be available at all hours or to delay making diagnoses. By allowing remote review of digital results, this bill would reduce the time needed for diagnoses and allow pathologists to make determinations after hours or on weekends in emergency cases or provide diagnosis services to patients from remote locations where access to care is limited. The author states this bill "can expedite diagnosis of critical conditions. For

example, diagnosing a specific subtype of acute leukemia in order to emergently initiate therapy must be done within hours, lest the patient have a 20% mortality risk; this can only reliably be done during non-business hours for all patients, regardless of hospital location, using digital image review. The same applies to the use of remote interpretation of flow cytometry data in the diagnosis of acute leukemia which also requires same day diagnosis in order to initiate critically important chemotherapy."

Both CLIA and state law require the performance of laboratory tests, which includes the review and reporting of the test results, to be done in a licensed clinical laboratory. The purpose of the requirement is to ensure that the proper equipment and protocols needed to ensure accuracy and quality are in place.

This bill authorizes California pathologists to allow remote reviewing and reporting of digital materials if federal CLIA requirements are met. CLIA, pursuant to Centers for Medicare and Medicaid Services (CMS) guidance, allows remote reviewing and reporting by pathologists and other laboratory personnel of digital materials, defined as digital laboratory data, digital results, and digital images. Specifically, CMS allows laboratories to allow staff to remotely review digital materials if specified criteria are met.

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

According to the Senate Appropriations Committee the CDPH reports limited term costs of approximately $91,000 annually over a three-year period beginning in Fiscal Year 2024-25.

SUPPORT: (Verified 8/20/24)

California Society of Pathologists (source)
California Life Sciences
Kaiser Permanente
University of California

OPPOSITION: (Verified 8/20/24)

None received

ARGUMENTS IN SUPPORT: California Life Sciences writes in support, "The federal Center for Medicare and Medicaid Services (CMMS) has recently taken steps to allow for remote review of pathology slides in order to respond to recent public health emergencies. However, existing state law prevents California's

clinical laboratories from taking advantage of these updated federal guidelines – which compromises our clinical labs' ability to respond to threats from a growing number of respiratory illness and other pathogens. In order to increase capacity and decrease response time, our clinical lab pathologists and technicians must be allowed to follow CMMS guidance and remotely review certain digital laboratory data."

The California Society of Pathologists writes, "In medically underserved rural and urban areas, a lack of primary care practitioners, specialty providers, and other medical professionals continues to pose significant barriers to access to health care services. Digital pathology and remote review by pathologists will become increasingly vital for the efficient delivery of health care in these and other Communities."

Kaiser Permanente supports this bill and notes, "Clinical laboratory services continue to be in high demand in California and patients may experience delays or have difficulty accessing services. AB 2107 will help address a multitude of challenges, such as workforce shortages in medically underserved rural and urban areas while improving access to timely and potentially expedited clinical lab results that can help improve patient care."

The University of California states, "Without this authorization, pathologists will be limited to viewing digital slides, images, and clinical data inside a licensed laboratory, even though no actual laboratory equipment is utilized or needed. By allowing remote digital review, the on-call pathologist will be able to contact a UC pathologist with more specialized training and/or expertise, for a second opinion, if needed. Without remote digital data review, important test results can be delayed by several hours or to the next day when the patient presents after hours, on the weekend, or during holidays. This amount of delay can be very significant in certain clinical situations and could impede UC's ability to provide advanced patient care in a timely manner."

ASSEMBLY FLOOR: 69-0, 5/23/24
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Chen, Connolly, Davies, Dixon, Flora, Mike Fong, Vince Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, McCarty, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Rendon, Reyes,

Rodriguez, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wilson, Wood, Robert Rivas
NO VOTE RECORDED: Bennett, Cervantes, Megan Dahle, Essayli, Holden, Mathis, McKinnor, Luz Rivas, Blanca Rubio, Wicks, Zbur

Prepared by: Yeaphana La Marr / B., P. & E.D. /
8/21/24 16:12:27

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

SENATE RULES COMMITTEE AB 2243
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2243
Author: Wicks (D)
Amended: 8/27/24 in Senate
Vote: 21

SENATE HOUSING COMMITTEE: 8-0, 6/18/24
AYES: Skinner, Ochoa Bogh, Blakespear, Caballero, Cortese, Menjivar, Padilla, Wahab
NO VOTE RECORDED: Seyarto, Umberg

SENATE LOCAL GOVERNMENT COMMITTEE: 5-1, 7/3/24
AYES: Durazo, Dahle, Skinner, Wahab, Wiener
NOES: Seyarto
NO VOTE RECORDED: Glazer

SENATE APPROPRIATIONS COMMITTEE: 5-1, 8/15/24
AYES: Caballero, Jones, Ashby, Becker, Wahab
NOES: Seyarto
NO VOTE RECORDED: Bradford

SENATE HOUSING COMMITTEE: 8-0, 8/29/24
AYES: Skinner, Ochoa Bogh, Blakespear, Caballero, Cortese, Padilla, Umberg, Wahab
NO VOTE RECORDED: Menjivar, Seyarto

ASSEMBLY FLOOR: 71-0, 5/16/24 (Consent) - See last page for vote

SUBJECT: Housing development projects: objective standards: affordability and site criteria

SOURCE: California Conference of Carpenters
Housing Action Coalition

DIGEST: This bill revises the scope of the Affordable Housing and High Road Jobs Act of 2022, enacted by AB 2011 (Wicks, Chapter 647, Statutes of 2022), and the Middle Class Housing Act of 2022, enacted by SB 6 (Caballero, Chapter 659, Statutes of 2022).

Senate Floor Amendments of 8/27/24 (a) expand the sites eligible for streamlining under The Middle Class Housing Act to include regional malls, as defined, (b) define "commercial corridor," for the purposes of the High Road Jobs Act to mean, "a street that is not a freeway and that has a right-of-way of at least 70 and not greater than 150 feet, (c) removes existing office buildings of at least 50,000 square feet from the sites that qualify for streamlining under the High Road Jobs Act.

ANALYSIS:

Existing Law:

1) Establishes the Affordable Housing and High Road Jobs Act of 2022 (AB 2011), which deems the development of 100% affordable and qualifying mixed-income housing development projects that are located in commercial corridors to be a use by right and requires local agencies to approve these projects ministerially if specified development and workforce criteria are met.

2) Establishes the Middle Class Housing Act of 2022 (SB 6), which makes a housing development project an allowable use on parcels that are principally zoned for office, retail or parking, if the housing development meets specified development and workforce criteria, and the project site is 20 acres or less.

This bill:

1) Makes a series of changes to the provisions of AB 2011, specifically:

    a) Adds or amends the definitions applicable to developments subject to the provisions of AB 2011.
    b) Amends the site location criteria that apply to both 100% affordable and mixed-income housing development projects eligible for ministerial approval as follows:

        i) Clarifies that bicycle and pedestrian paths are in the same category as streets and highways and, therefore, do not interfere with a property being identified as adjoined by "urban uses."

ii) Makes industrial sites eligible for streamlined ministerial review under specified circumstances.
iii) Aligns site location restrictions on streamlining within the sensitive sites in the coastal zone with site location restrictions that apply to SB 35 developments, as specified.

c) Amends the objective development standards that both 100% affordable and mixed-income housing development projects must meet to qualify for ministerial approval as follows:

i) Expands application of AB 2011 to developments that include housing located within 500 feet of a freeway, so long as these projects meet specified air filtration and air quality standards.
ii) Prohibits the imposition of new common open space requirements for AB 2011 projects that convert existing space from nonresidential buildings to residential uses.

d) Expands the types of sites that qualify for ministerial approval for mixed-income developments to include projects that will convert a regional mall, as defined, provided that the site of the regional mall is not greater than 100 acres, and establishes the following standards for a development project at a regional mall:

i) The average size of a block, as defined, shall not exceed three acres.
ii) At least 5 % of the site shall be dedicated to open space.
iii) For a portion of the property that fronts a street that is newly created by the project, a building shall abut within 10 feet of the street for at least 60% of the frontage.

e) Makes the following changes to the process for public agencies to ministerially approve 100% affordable and mixed-income housing development projects:

i) Establishes a schedule for a local government to determine if a project is consistent with applicable standards within 60 or 90 days as specified.
ii) Establishes a schedule for a local government to approve a development it determined is consistent with applicable standards within 60 or 90 days as specified.

f) Requires a local government to provide a credit to the developer for any fee, as defined in the Mitigation Fee Act, for existing uses that are demolished as part of the development at the rate established by the local government for those existing uses, as specified.

g) Reduces the minimum density that a housing development project must meet in order to qualify for AB 2011 streamlining, as specified.

h) Makes a series of other changes and clarifications to the provisions of AB 2011.

2) Expand the sites eligible for housing development under SB 6 to include regional malls, as defined, if they are less than 100 acres in size.

Comments

1) *Author's Statement.* According to author, "AB 2243 amends the language of the Affordable Housing and High Road Jobs Act of 2022 (AB 2011, Wicks). These amendments facilitate implementation of AB 2011 by expanding its geographic applicability and clarifying aspects of the law that are subject to interpretation. Collectively, the changes in AB 2243 would improve AB 2011 and, in doing so, make it easier to build more housing in the right locations."

2) *Authorizing Residential Development in Commercial Zones.* The Legislature recently enacted several bills to facilitate the production of more housing by increasing the sites available for residential development. Notably, AB 2011 (Wicks) --- the provisions of which are substantively amended by this bill --- and the Middle Class Housing Act of 2022 (SB 6, Caballero, Chapter 659, Statutes of 2022) both made certain types of housing developments an allowable use on land zoned for commercial uses; these bills effectively rezoned eligible parcels statutorily and increased the stock of land that could be developed into housing in California. These bills obviated the need for a local government to conduct a CEQA review in order to rezone certain commercial parcels to allow housing development on these parcels.

   Additionally, AB 2011 required local governments to ministerally approve housing developments on these parcels if they included specific levels of affordable housing and met other development criteria. Working in tandem, AB 2011's statutory rezoning of commercial parcels, and its requirement for local governments to approve affordable housing projects ministerially, can

dramatically expedite the approval and development of much needed housing in California.

3) *Rebalancing AB 2011's Scope.* While AB 2011 requires local governments to ministerially approve certain types of affordable housing projects, it included an extensive list of site-specific and development criteria that a housing development project must meet to qualify for ministerial approval. This bill amends several of the site-specific criteria in ways that expand the number of sites eligible for ministerial approval, and it will amend other criteria in ways that narrow the number of sites eligible for ministerial approval. Specifically, AB 2011 excluded sites that were within 500 feet of a freeway or within 3,200 feet of an active oil or gas extraction facility or refinery from eligibility for ministerial approval. This bill will allow for ministerial approval within 500 feet of a freeway if the development meets specified air quality standards. Conversely, AB 2011 applies statewide without any limitations on its provisions in the coastal zone. This bill will narrow the scope of commercial land that is eligible for streamlined development to exclude certain sensitive sites in the coastal zone.

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

According to the Senate Appropriations Committee:

- The Department of Housing and Community Development (HCD) estimates costs to implement this bill would be minor. HCD staff would likely need to coordinate with local governments, provide guidance and technical assistance, and manage enforcement activities related to the expanded universe of projects that would be eligible for streamlining under the Affordable Housing and High Road Jobs Act of 2022 (AB 2011). (General Fund)

- The Department of Industrial Relations (DIR) would incur unknown annual ongoing costs for oversight and enforcement activities related to prevailing wage and apprenticeship standards on projects constructed pursuant to the expanded provisions of this bill. There would also be unknown penalty revenue gains to partially offset these costs. Actual costs and penalty revenues would depend upon the number of qualifying projects constructed under this bill's expanded applicability and the number of complaints and referrals to the Division of Labor Standards and Enforcement that require enforcement actions, investigations, and appeals. (State Public Works Enforcement Fund)

- Unknown local mandated costs. While the bill would impose new costs on local agencies to revise planning requirements and considerations for an

expanded pool of projects that would be eligible for streamlining under the Affordable Housing and High Road Jobs Act of 2022, these costs are not state-reimbursable because local agencies have general authority to charge and adjust planning and permitting fees to cover their administrative expenses associated with new planning mandates. (local funds)

SUPPORT: (Verified 8/22/24)

California Conference of Carpenters (co-source)
Housing Action Coalition (co-source)
21st Century Alliance
Abundant Housing LA
American Planning Association, California Chapter
California Apartment Association
California Business Properties Association
California Community Builders
California Housing Consortium
California School Employees Association
California YIMBY
Circulate San Diego
Civicwell
Fieldstead and Company
Generation Housing
Habitat for Humanity California
Housing Trust Silicon Valley
Inner City Law Center
LeadingAge California
Mercy Housing
Midpen Housing
Midpen Housing Corporation
People for Housing - Orange County
Sand Hill Property Company
SPUR
The Two Hundred
Western States Regional Council of Carpenters
YIMBY Action

OPPOSITION: (Verified 8/22/24)

350 Bay Area Action
Asian Pacific Environmental Network Action

Beverly-vermont Community Land Trust
Black Women for Wellness Action Project
Calle 24 Latino Cultural District
California Environmental Justice Alliance Action, a Project of Tides Advocacy
California Environmental Voters
California Nurses for Environmental Health and Justice
Catholic Charities of The Diocese of Stockton
Center for Biological Diversity
Center for Community Action and Environmental Justice
Center on Race, Poverty & the Environment
Central Valley Air Quality Coalition
City of Beverly Hills
City of Brentwood
City of La Habra
City of Lafayette
City of Newport Beach
City of Santa Ana
City of Santa Clarita
City of Thousand Oaks
Climate Equity Policy Center
Climate Health Now
Communities for A Better Environment
Courage California
Disability Rights California
East Bay Community Law Center
Environmental Health Coalition
Esperanza Community Housing Corporation
First Wednesdays San Leandro
Fossil Free California
Fractracker Alliance
Friends of The Earth
Greenpeace USA
Housing Equity & Advocacy Resource Team
Labor Network for Sustainability
Labor Rise Climate Jobs Action
Leadership Counsel for Justice & Accountability
League of California Cities
Livable California
Mission Economic Development Agency
Mothers Out Front California

No Coal in Oakland
Physicians for Social Responsibility - Los Angeles
Physicians for Social Responsibility - Sacramento Chapter
Physicians for Social Responsibility - San Francisco Bay Area Chapter
Poder
Sacred Heart Community Service
San Francisco Bay Area Physicians for Social Responsibility
San Francisco Latino Task Force
San Francisco Physicians for Social Responsibility
Stand.earth
Sunflower Alliance
Tenemos Que Reclamar Y Unidos Salvar LA Tierra - South LA
Tri-valley Cities of Dublin, Livermore, Pleasanton, San Ramon, and Town of Danville
Trust South LA
United to Save the Mission
Voting 4 Climate & Health
Young Community Developers

ARGUMENTS IN SUPPORT: The Housing Action Coalition, writing in support notes that since the enactment of AB 2011 housing developers and local governments identified aspects of the law that are subjective and open to interpretation. They argue that AB 2243 will address ambiguities in AB 2011. Additionally, they note that changing economic circumstances in commercial real estate create new opportunities for developing housing on now underutilized commercial properties. AB 2243, in expanding the scope of AB 2011 would make more of these sites eligible for streamlined housing development.

ARGUMENTS IN OPPOSITION: Several environmental justice groups, writing in opposition, raise concerns with provisions of the bill that would allow AB 2011's streamlining provisions to include housing developments located within 500 feet of a freeway. Additionally several cities write in opposition expressing concern that AB 2011 was only recently enacted and argue "that cities need the time and space to implement the dozens new housing laws that have been passed in recent years…"

ASSEMBLY FLOOR: 71-0, 5/16/24
AYES: Aguiar-Curry, Alanis, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Chen, Connolly, Davies, Dixon, Essayli, Mike Fong, Friedman, Gabriel, Gallagher,

Garcia, Grayson, Haney, Hart, Holden, Hoover, 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, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas

NO VOTE RECORDED: Addis, Alvarez, Cervantes, Megan Dahle, Flora, Vince Fong, Gipson, Irwin, Mathis

Prepared by: Hank Brady / HOUSING / (916) 651-4124
8/29/24 16:35:27

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

Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 2250
Author: Weber (D), et al.
Amended: 8/27/24 in Senate
Vote: 21

SENATE HEALTH COMMITTEE: 9-0, 6/5/24
AYES: Roth, Glazer, Gonzalez, Hurtado, Limón, Menjivar, Rubio, Smallwood-Cuevas, Wiener
NO VOTE RECORDED: Nguyen, Grove

SENATE APPROPRIATIONS COMMITTEE: 4-2, 8/15/24
AYES: Caballero, Ashby, Becker, Wahab
NOES: Jones, Seyarto
NO VOTE RECORDED: Bradford

ASSEMBLY FLOOR: 66-0, 5/21/24 - See last page for vote

SUBJECT: Social determinants of health: screening and outreach

SOURCE: California Academy of Family Physicians
California Primary Care Association Advocates

DIGEST: This bill requires health plans and insurers to cover screenings for social determinants of health (SDOH) and provide primary care providers with adequate access to community health workers and social workers, among other types of workers. Requires the Department of Health Care Services to provide reimbursement for SDOH screenings as a covered Medi-Cal benefit.

Senate Floor Amendments of 8/27/24 make a technical change to avoid a chaptering out problem.

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 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 Medi-Cal program, administered by the Department of Health Care Services (DHCS), under which low-income individuals are eligible for medical coverage. [Welfare and Institutions Code (WIC) §14000, et seq.]

3) Requires DMHC to establish standard measures and annual benchmarks for equity and quality in health care delivery. Requires a health plan to annually submit to DMHC a report containing health equity and quality data and information. Requires DMHC to coordinate with DHCS to support the review of, and any compliance action taken with respect to, Medi-Cal managed care plans ("Medi-Cal plans") to maintain consistency with the applicable federal and state Medicaid requirements governing those plans. Also applies the requirements on health plans to Medi-Cal plans that contract with DHCS to provide health care services to Medi-Cal beneficiaries. [HSC §1399.871-1399.873]

4) Establishes a schedule of benefits under the Medi-Cal program, which includes benefits required under federal law and benefits provided at state option but for which federal financial participation is available. Includes community health worker (CHW) services as a covered Medi-Cal benefit. [WIC §14132, §14132.36]

5) Defines "CHW" to mean a liaison, link, or intermediary between health and social services and the community to facilitate access to services and to improve the access and cultural competence of service delivery. [WIC §18998]

6) Requires DHCS to require each Medi-Cal plan to develop and maintain a beneficiary-centered population health management (PHP) program that meets specified standards, including identifying and mitigating SDOH and reducing health disparities or inequities. [WIC §14184.204]

This bill:

1) Defines "SDOH" as the conditions under which people are born, grow, live, work, and age, including housing, food, transportation, utilities, and personal safety.

2) Requires a health plan contract or a health insurance policy issued, amended, or renewed after January 1, 2027 to include coverage for and provide reimbursement to health care providers for SDOH screenings.

3) Allows providers to ask questions in the SDOH screenings in the manner the provider believes is most appropriate or more likely to elicit the best response from the patient. Requires providers to use existing tools or protocols that have been validated by the Centers for Medicare and Medicaid Services (CMS), the National Association of Community Health Centers, the American Academy of Family Physicians, the National Committee for Quality Assurance, or other nationally recognized organizations that include the domains of food insecurity, housing insecurity, and transportation needs. Also requires providers use federally recognized, standardized codes, if available, for conducting a social determinants of health screening, as well as diagnosis codes indicating any social needs identified during the screening.

4) Requires a health plan or insurer to provide physicians who provide primary care services with adequate access to peer support specialists, lay health workers, or CHWs, including promotores and community health representatives, in counties where the health plan or insurer has enrollees or insureds. Requires health plans and insurers to inform physicians who provide primary care services of how to access these various workers.

5) Allows DMHC and CDI to implement this bill via guidance until regulations are adopted and requires DMHC and CDI to coordinate in the development of these guidances and regulations.

6) Adds SDOH screenings as a covered Medi-Cal benefit. Requires DHCS or a Medi-Cal plan to reimburse providers who render this service, unless the service is already covered under a separate covered benefit.

7) Requires federally qualified health centers (FQHCs) and rural health clinics (RHCs) to be reimbursed for SDOH screenings at the Medi-Cal fee-for-service rate in addition to any other amounts payable with respect to these services, including payments under the prospective payment system (PPS) or the

alternative payment methodology (APM), and requires these payments to be excluded for calculations in the prospective payment system.

8) Conditions implementation of this bill upon a specific appropriation by the Legislature.

Comments

1) *Author's statement.* According to the author, "research shows that an individual's economic and social conditions influences their health status. Identifying these SDOH for individuals and families is a critical step in ensuring health equity and optimal health outcomes for all people in California. Additionally, a recent study discovered that physicians feel discomfort not being able to address their patient's SDOH needs. This bill will help physicians begin to address patients' needs by referring patients to supportive resources closest to them."

2) *Current state efforts to address SDOH in healthcare settings.* SDOH refers to the nonmedical factors that influence health outcomes, sometimes more significantly, than particular medical diagnoses. For example, if someone has food insecurity, the lack of food and poor nutrition can have a significant short and long-term impact on that person's health and can also interfere with other attempts to treat a condition such as diabetes through traditional medical interventions. Several efforts have been made recently in California to screen for and address SDOH through the health care system.

   a) *ACEs Screenings.* In partnership with the California Office of the Surgeon General, DHCS created a statewide effort to screen patients for Adverse Childhood Experiences (ACEs) that lead to trauma and the increased likelihood of ACEs-associated health conditions due to toxic stress with the goal of reducing ACEs and toxic stress by half in one generation. As of January 1, 2020, DHCS has been paying Medi-Cal providers $29 per screening for children and adults with Medi-Cal coverage. SB 428 (Hurtado, Chapter 641, Statutes of 2021) requires commercial health plans and insurers that provide coverage for pediatric services and preventive care to also include coverage for ACEs screenings.

   b) *Medi-Cal's CalAIM initiative.* CalAIM is a collection of Medi-Cal initiatives aimed at addressing SDOH, reducing program complexity and increasing flexibility, and modernizing payment structures to promote better outcomes. The CalAIM initiative started on January 1, 2022, after passage of

AB 133 (Committee on Budget, Chapter 143, Statutes of 2021), approval of a federal Section 1115 demonstration waiver, and approval of a Section 1915(b) waiver, which are both effective through December 31, 2026.

Population Health Management (PHM) is an initiative within CalAIM that identifies and manages member risk and need through whole-person care approaches, while focusing on and addressing SDOH. The PHM initiative collects SDOH data not just based on information obtained while screening plan enrollees, but also by coding and documenting SDOH among network providers and subcontractors, including providers of enhanced care management and community support services providers. Medi-Cal plan contracts require plans to identify and track SDOH and develop partnerships with local agencies to support community needs, including supports like housing and other non-health-related programs.

CHW services were also added as a Medi-Cal benefit starting July 1, 2022 as part of CalAIM. CHW services are intended to prevent disease, disability, and other health conditions or their progression; to prolong life; and, promote physical and mental health. Covered CHW services include health education, screening and assessment that does not require a license, individual support or advocacy, and health navigation. Given concerns about the lack of CHW workforce, the Department of Health Care Access and Information (HCAI) was tasked with developing a statewide requirement to certify CHWs and to approve curriculum requirements for programs to certify CHWs in consultation with specified stakeholders through SB 184 (Committee on Budget and Fiscal Review, Chapter 47, Statutes of 2022) by July 1, 2023. HCAI issued guidance in July 2023 that has since been paused for additional stakeholder dialogs. HCAI is also tasked with collecting workforce data on CHWs.

c) *DMHC Health Equity and Quality Committee.* DMHC convened a Health Equity and Quality Committee in 2022 to make recommendations for standard health equity and quality measures, including annual benchmark standards for assessing equity and quality in health care delivery as required by AB 133. The Committee did consider including a new measure being proposed by health plan accreditor NCQA for social needs screening and intervention, but ultimately determined due to the stage of development of this proposed measure, it was too early to propose for inclusion in its final recommended measure set. Since then, NCQA has added the social need

screening and intervention measure to its Healthcare Effectiveness Data and Information Set (HEDIS) data measures that is widely used in the industry.

d) *Covered California.* Covered California contracts with its qualified health plans contain several provisions designed to reduce health disparities and increase health equity. With regards to SDOH screenings in particular, Covered California contracts require plans to screen all Covered California enrollees for food insecurity using the Accountable Health Communities Health-Related Social Needs tool developed by CMS that has been tested on Medicare and Medicaid populations. The contract highly encourages screening for additional health-related social needs. Health plans must report on their process for screening for SDOH, which questions are used, and actions the plan takes to coordinate screening and linkage to services within its provider network and to resources to address the social need.

3) *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 last year's AB 85, which is substantively similar to this bill on the issues discussed below. Key findings include:

a) *Coverage impacts and enrollees covered*. Currently, 75% (or 17,202,000) of the 22,842,000 enrollees with health insurance regulated by DMHC or CDI already have coverage for SDOH screening. This bill would expand coverage to 5,640,000 enrollees (25% of the enrollees with state-regulated health insurance), representing a 32.79% increase in benefit coverage postmandate. All of the enrollees who would gain SDOH screening coverage have commercial insurance or insurance through CalPERS; this group represents 40% of the commercial and CalPERS population.
b) *Medical effectiveness.* CHBRP reviewed findings from 2019 to 2023 on the evidence that multi-domain clinical screening for SDOH leads to referrals to CHWs or other social service navigators, to use of social services, and to changes in social outcomes, health care utilization, or health outcomes. Studies on screening for SDOH in a clinical setting were limited in number and quality; there were few randomized controlled trials and the observational studies lacked control arms. It is hard to generalize the findings of this research across studies because of the variety of populations included in studies, the various social needs, the variety of SDOH screening

tools, and the variety of referral interventions used in the studies. Therefore, taken together, the evidence on the effectiveness of screening for SDOH in a clinical setting, referral to navigators/social services, and downstream outcomes after screening is a mixture of limited, inconclusive, and insufficient. The lack of evidence due to limited research literature is not evidence of lack of effect.

c) *Utilization*. Currently, 325,700 enrollees in the large group, small group, CalPERS, and individual insurance market with existing coverage received SDOH screening. Approximately 1,763,400 Medi-Cal enrollees received SDOH screening. Postmandate, based on 25% of the state-regulated enrollee population gaining coverage for SDOH screening, CHBRP estimates that use of SDOH screening would increase by 210,949 among enrollees with commercial or CalPERS insurance (a 64.77% increase).
d) *Medi-Cal*. Because all Medi-Cal plans reported providing and paying for SDOH screening at baseline, no increase is estimated. Due to the combination of Medi-Cal contracting requirements, accreditation requirement changes, and the upcoming CalAIM Medicaid Waiver, CHBRP estimates that this bill would not result in new benefit coverage or increased use of SDOH screening in Medi-Cal plans.
e) *Impact on expenditures*. See the fiscal impact discussion above.
f) *Public health*. The public health impact on improved health (or socioeconomic) status and outcomes is unknown. Although CHBRP estimates that an additional ~211,000 commercially insured enrollees would receive SDOH screening in a clinical setting; and of those, ~25,000 are likely to screen positive for at least one social need; and of those, ~7,300 might connect with a CHW, it is unknown:
    i) If the supply of CHWs in California is sufficient;
    ii) If CHWs can successfully connect patients to at least one needed social resource;
    iii) If social services/community-based organizations have adequate resources to meet increased needs;
    iv) If these commercially insured enrollees would qualify for social services or community-based resources, most of which are income tested;
    v) If these commercially insured enrollees, if eligible for social services, would be able to use them (e.g., geographic, time, transportation or other barriers to their use);
    vi) Whether health outcomes would improve within 12 months and to what extent; and,
    vii) If and to what extent new social needs would develop and be addressed.

CHBRP does acknowledge that to the extent that some screened enrollees would be linked to and use social resources, real changes in individual health status and outcomes could occur during the first year postmandate. CHBRP also found that the impact on health disparities is unknown, primarily because the number of social resources available to the commercially insured population is less than those available to Medi-Cal beneficiaries (who already have coverage for SDOH screening). This may pose challenges to linking them with services that can sustainably address their social needs.

4) *Background on clinic PPS and APM rates.* FQHCs and RHCs are federally designated clinics that provide primary care services to serve medically underserved populations. FQHCs and RHCs are reimbursed by Medi-Cal on a per-visit rate, which is known as the prospective payment system (PPS) rate. Each FQHC and RHC has a specific Medi-Cal PPS rate for each face-to-face encounter, irrespective of the reason for the visit or the number of providers seen. For Medi-Cal managed care patients, DHCS reimburses FQHCs and RHCs for the difference between its per-visit PPS rate and the payment made by the plan through a wrap-around payment. This bill would require payments to FQHCs and RHCs to be made through the fee-for-service system on top of payments made through either the PPS system or the newly launched APM system, which aligns with how clinic providers are currently paid for ACEs screenings.

5) *Policy comments.* The rollout of the CHW benefit in Medi-Cal is still an ongoing process with its own workforce problems, thus rolling out a benefit that would require the use of these same workers in the commercial market may be premature.

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

According to the Senate Appropriations Committee, this bill would have the following fiscal impact:

- Unknown, ongoing General Fund costs due to an increase in CalPERS health plan premiums.
- DMHC estimates minor and absorbable costs for state administration.
- CDI anticipates no fiscal impact for state administration.

SUPPORT: (Verified 8/7/24)

California Academy of Family Physicians (co-source)
California Primary Care Association Advocates (co-source)
AIDS Healthcare Foundation
Alameda Health Consortium - San Leandro, CA
AltaMed Health Services
American Academy of Pediatrics, California
American College of Obstetricians and Gynecologists District IX
APLA Health
Asian Health Services
Back to the Start
California Academy of Family Physicians
California Association of Public Hospitals and Health Systems
California Black Health Network
California Chronic Care Coalition
California Council of Community Behavioral Health Agencies
California Kidney Care Alliance
California Life Sciences
California Medical Association
California Pan - Ethnic Health Network
California Society of Health System Pharmacists
Child Abuse Prevention Center
Children's Choice Dental Care
Children's Specialty Care Coalition
CleanEarth4Kids.org
Communicare+OLE
Community Clinic Association of Los Angeles County
Comprehensive Community Health Centers
California Primary Care Association Advocates
DaVita Healthcare Partners Inc.
Desert Aids Project Health
Eisner Health
Family Health Centers of San Diego
First 5 California
Golden Valley Health Centers
Health Access California
Health Alliance of Northern California
Health Center Partners of Southern California
Hill Country Community Clinic

Inland Family Community Health Center
La Clinica de La Raza, Inc.
La Maestra Community Health Centers
Lifelong Medical Care
Local Health Plans of California
National Association of Social Workers California
National Multiple Sclerosis Society
Neighborhood Healthcare
North Coast Clinics Network
North East Medical Services
Northeast Valley Health Corporation
Ochin, Inc.
Petaluma Health Center
Planned Parenthood Affiliates of California
SAC Health
San Diego Regional Chamber of Commerce
San Ysidro Health
Santa Rosa Community Health
Share Our Selves
South Central Family Health Center
The Children's Clinic dba TCC Family Health
The Los Angeles Trust for Children's Health
TrueCare
Unicare Community Health Center
Venice Family Clinic
West County Health Centers
Western Center on Law & Poverty

OPPOSITION: (Verified 8/7/24)

None received

ARGUMENTS IN SUPPORT: Co-sponsors the California Academy of Family Physicians write that screening for SDOH can help physicians better contextualize the care they are providing patients. The challenge is the lack of resources to operationalize this significant, complex task into a busy practice environment in a manner that is actionable and practical. Moreover, physicians don’t know how to address the needs of patients outside the clinic walls. This bill seeks to address this by requiring health plans and insurers to pay for the screening for SDOH. The bill will also increase efforts to bridge patients to community resources or government social services to address their SDOH needs by requiring health plans and insurers to provide access to CHWs, promotores, peer support specialists, lay health

workers, and social workers. Access to these community support navigators will provide the necessary linkage between the healthcare team and community resources, which will close the gap in follow-ups after screening.

ASSEMBLY FLOOR: 66-0, 5/21/24
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Chen, Connolly, Davies, Flora, Mike Fong, Garcia, Gipson, Grayson, Haney, Hart, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Rendon, Reyes, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas
NO VOTE RECORDED: Cervantes, Megan Dahle, Dixon, Essayli, Vince Fong, Friedman, Gabriel, Gallagher, Holden, Hoover, Mathis, Jim Patterson, Luz Rivas, Ta

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8/28/24 23:39:25

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

SENATE RULES COMMITTEE AB 2263
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 2263
Author: Friedman (D), et al.
Amended: 8/27/24 in Senate
Vote: 21

SENATE HUMAN SERVICES COMMITTEE: 4-0, 7/1/24
AYES: Alvarado-Gil, Blakespear, Limón, Menjivar
NO VOTE RECORDED: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/15/24
AYES: Caballero, Ashby, Becker, Bradford, Wahab
NO: Jones, Seyarto

ASSEMBLY FLOOR: 54-14, 5/23/24 - See last page for vote

SUBJECT: The California Guaranteed Income Statewide Feasibility Study Act

SOURCE: GRACE- End Child Poverty in California
National Council of Jewish Women, Los Angeles Section

DIGEST: This bill creates the California Guaranteed Income Statewide Feasibility Study Act and requires the California Department of Social Services (CDSS) to contract with one or more entities to create the Guaranteed Income Statewide Feasibility Study which will make recommendations about the feasibility of a permanent statewide guaranteed income program. Requires CDSS to publish a report on July 1, 2027 on the feasibility and benefits of expanding Guaranteed Income Program and other findings.

Senate Floor Amendments of 8/27/24 changes the name to California Guaranteed Income Statewide Feasibility Study Act and instead of creating a Coordinating Council and Steering Committee and it requires the Department of Social Services to contract with other entities and create a steering committee to complete and report on the objectives of the bill.

ANALYSIS:

Existing Law:

1) Requires, subject to an appropriation for the purpose in the annual Budget Act, CDSS to administer the California Guaranteed Income Pilot Program to provide grants to eligible entities for the purpose of administering pilot programs and projects that serve California residents who age out of the extended foster care program at or after 21 years of age or who are pregnant individuals. *(WIC 18997(a))*

2) Requires CDSS, in consultation with relevant stakeholders, to determine the methodology for, and manner of, distributing grants awarded. Requires CDSS, in determining the methodology for, and manner of, distributing grants, to ensure that grant funds are awarded in an equitable manner to eligible entities in both rural and urban counties and in proportion to the number of individuals anticipated to be served by an eligible entity's pilot program or project. *(WIC 18997(a))*

3) Requires CDSS to review and evaluate the funded pilot programs and projects to determine, at a minimum, the economic impact of the programs and projects and their impact on the outcomes of individuals who receive guaranteed income payments. Requires the evaluation to include the applicability of the lessons learned from the pilot program for the state's California Work Opportunity and Responsibility to Kids (CalWORKs) program, with the objective of reaching the goals of improved outcomes for families and children living in poverty. *(WIC 18997(e)(1))*

4) Requires CDSS to submit a report to the Legislature regarding the review and evaluation conducted in 5) above and to post a copy of the report on its internet website. *(WIC 18997(e)(2))*

5) Defines "eligible entity" to mean either of the following:

   a) A city, county, city and county, tribe, consortium of tribes, or tribal organization, or any combination thereof; or,

   b) A nonprofit organization that is exempt from federal income taxable under Section 501(c)(3) or 501(c)(5) of the Internal Revenue Code of 1968 and that provides a letter of support for its pilot program or project from any county or city and county in which the organization will operate its pilot program or project. *(WIC18997(g))*

6) Authorizes CDSS to establish an appropriate method, process, and structure for grant management, fiscal accountability, payments to guaranteed income pilot participants, and technical assistance and supports for grantees that ensure transparency and accountability in the use of state funds. *(WIC 18997.2(a))*

7) Requires the California Guaranteed Income Pilot Program to become inoperative on July 1, 2026, and, as of January 1, 2027, is repealed. *(WIC 18997.4)*

This Bill:

1) Creates the California Guaranteed Income Statewide Feasibility Study Act.

2) Requires the Department of Social Services (CDSS) to contract with one or more entities to create the Guaranteed Income Statewide Feasibility Study that will make recommendations about the feasibility a statewide Guaranteed Income Program and achieve specified objectives, including:

    a. Determining the infrastructure administrative capacity and data sharing needed to execute a statewide guaranteed income program.

    b. Examine feasibility of scaling up permanent guaranteed income programs focusing on regions with high cost of living and requires recommendations about the scaling up of current guaranteed income programs be informed by lessons learned from the Guaranteed Income Pilot Program.

    c. Explore funding mechanisms, partnerships, and sustainable revenue sources that can support a permanent guaranteed income program, as specified.

    d. Explore a data driven approach to identify priority populations and require specified state departments to share necessary data with CDSS notwithstanding any other state or federal law.

    e. Identify local, state, and federal resources, benefits, and services that seek to prevent and end poverty in California.

    f. Identify necessary data- sharing partnerships among specified state and federal departments.

    g. Identify the need and potential for local, state, and federal entities to coordinate existing funding and applications for competitive funding.

h. Present policy and procedural recommendations to legislators and other governmental entities.

3) Requires the contractor chosen by CDSS to be limited to California based research institutions that are supported by the United States Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation and to provide compensation to steering committee participants who were local guaranteed income program participants.

4) Requires CDSS to publish a report on July 1, 2027 on the feasibility and benefits of expanding the Guaranteed Income Pilot Program and other findings.

5) Makes the reporting requirement inoperative on January 1, 2029.

6) Requires the creation of a steering committee, as specified.

7) Makes implementation of this chapter shall be subject to an appropriation by the Legislature.

Comments

According to the author, "California has one of the highest costs of living in the United States and is home to the nation's starkest income and wealth disparities. Against this backdrop, guaranteed income programs are a transformative approach to addressing poverty and inequality. While we've made landmark investments in pilot programs, more work is needed to build on that momentum and effectively translate the pilot findings into a sustainable and statewide program.

"AB 2263 establishes the framework for a comprehensive study on the needed infrastructure, funding, and prioritization of populations for a statewide program to alleviate poverty and promote economic empowerment for enrollees in communities across California."

Universal Basic Income. According to Stanford Law School's Basic Income Lab, an initiative of the Stanford McCoy Family Center for Ethics in Society, Universal Basic Income can vary by funding source, level and frequency of payment, and the particular associated policies that are proposed around it. Despite these variables, they provide the following as defining characteristics of Universal Basic Income:

- Periodic: A recurrent payment, rather than a one-off grant;

- Cash Payment: provided to recipients as cash, so that recipients may convert their benefits into whatever they chose;
- Universal: paid to all, and not targeted to a specific population;
- Individual: paid on an individual basis versus household-basis; and
- Unconditional: it involves no work requirement or sanctions, it is accessible to those in work and out of work, voluntarily or not.

Proponents of Universal Basic Income suggest that recipient choice in terms of how to spend the funds received and the unconditional nature of Universal Basic Income are key characteristics that differentiate Universal Basic Income projects from other, more traditional safety net programs. By not placing restrictions on how the funds may be spent, Universal Basic Income projects allow the recipient to determine how to spend the funds, and individuals are able to make the choices that are most important to their own well-being and success. Additionally, by not tying Universal Basic Income to work or other conditions, recipients are given the space and time needed to focus on things like education or skill attainment that might not otherwise be feasible.

This bill requires the Guaranteed Income Statewide Feasibility Study to be advised by a steering committee that consists of participants who have operated or participated in local or state guaranteed income programs, as well as representatives of antipoverty organizations and researchers with expertise.

California Guaranteed Income Pilot Program. The 2021-22 Budget (AB 153, Committee on Budget, Chapter 86, Statutes of 2021) established the California Guaranteed Income Pilot Program to provide grants to eligible entities for the purpose of administering pilot programs and projects that provide a guaranteed income to participants. The Guaranteed Income Pilot Program received $35 million General Fund in the 2021 Budget to be spent over five years. CDSS is the administering department and is responsible for prioritizing funding for pilot programs and projects that serve California residents that age out of the extended foster care program at or after 21 years of age or individuals who are pregnant. CDSS, in consultation with stakeholders, is also responsible for determining the methodology for, and manner of, distributing Guaranteed Income Pilot program grants. CDSS and the entities receiving funding, are also required to seek waivers or exemptions as necessary to prevent guaranteed income payments from being calculated as income or resources for the purpose of determining a recipient, or member of their household's, eligibility for benefits or assistance, or the amount or

extent of benefits or assistance, provided under any state or local benefit or assistance program, the Medi-Cal program, and federal benefit and assistance programs.

Entities eligible to receive the California Guaranteed Income Pilot Program grants are: cities, counties, or a city and county; and, a nonprofit organization, as provided, that provides a letter of support for its pilot or project from any county or city and county in which the organization will operate its pilot project. Additionally, in order to receive funding, the eligible entity must present commitments of additional funding for Guaranteed Income Pilot program pilots and projects from a nongovernmental source equal to or greater than 50 percent of the amount of funding provided by a Guaranteed Income Pilot grant. The eligible entity must also agree to assist CDSS in obtaining, or to pursue, all available exemptions or waivers to ensure that guaranteed income payments made under the funded pilots and projects are not considered income or resources for the recipient of the guaranteed income payments or any member of their household in any means-tested federal, state, or local public benefit programs.

This bill requires Guaranteed Income Statewide Feasibility Study to draw upon the lessons learned in the California Guaranteed Income Pilot Program and local guaranteed income programs to provide recommendations to establish a permanent statewide guaranteed income program.

Related/Prior Legislation

AB 120 (Committee on Budget, Chapter 43, Statutes of 2023) required CDSS to evaluate the applicability of the lessons learned from the Guaranteed Income Pilot Program for the state's California Work Opportunity and Responsibility to Kids (CalWORKs) program, with the objective of reaching the goals of improved outcomes for families and children living in poverty. The bill authorizes the department to accept and expend funds from any source, public or private, to administer the program.

SB 333 (Cortese, 2023) would establish, subject to appropriation, the California Success, Opportunity, and Academic Resilience (SOAR) GIP Program and the California SOAR GI Fund for purposes of awarding monthly payments to twelfth grade students who are homeless from April 1, 2025, to August 1, 2025. The bill is pending before the Assembly Appropriations Committee.

AB 128 (Committee on Budget, Chapter 21, Statutes of 2021) appropriated funds for the California Guaranteed Income Pilot Program to provide grant funding to local county or city pilots, as provided.

AB 65 (Low, 2021) would have created a Universal Basic Income program administered by the FTB. The bill was held in the Assembly Appropriations Committee

SB 739 (Cortese, 2021) would have created a Universal Basic Income pilot project for foster youth exiting foster care at 21 years of age by providing monthly $1,000 payments to those former foster youth for three years, as provided. Prior to being amended out of this committee's jurisdiction while in the Assembly, portions of the bill were incorporated into AB 153 (2021). The bill was held in the Assembly Committee on Natural Resources.

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

- The California Department of Social Services (CDSS) estimates General Fund costs of $999,000 in the first year and $986,000 ongoing thereafter for state administration to support the council.

- Unknown General Fund cost pressures related to the potential expansion of guaranteed income programs statewide.

SUPPORT: (Verified 8/15/24)

GRACE- End Child Poverty in California (co-source)
National Council of Jewish Women, Los Angeles Section (co-source)
ACLU California Action
Buen Vecino
California Faculty Association
California Immigrant Policy Center
California Wic Association
California Women's Law Center
Center for Employment Opportunities, INC.
Child Abuse Prevention Center and Its Affiliates Safe Kids California, Prevent Child Abuse California and The California Family Resource Association; the
County of Los Angeles Board of Supervisors
County Welfare Directors Association of California
Democrats for Israel - CA
Democrats for Israel Los Angeles
Destination: Home

Economic Security Project Action
Etta
Friends Committee on Legislation of California
Glide
Golden State Opportunity
Hadassah
Holocaust Museum LA
Ikar
Jcrc Bay Area
Jewish Center for Justice
Jewish Community Federation and Endowment Fund
Jewish Democratic Club of Marin
Jewish Democratic Club of Solano County
Jewish Democratic Coalition of The Bay Area
Jewish Family and Children's Service of Long Beach and Orange County
Jewish Family and Children's Services of San Francisco, the Peninsula, Marin and Sonoma Counties
Jewish Family Service of Los Angeles
Jewish Family Service of San Diego
Jewish Family Services of Silicon Valley
Jewish Federation of The Greater San Gabriel and Pomona Valleys
Jewish Long Beach
Jewish Public Affairs Committee
Jewish Silicon Valley
Jvs Socal
Mazon: a Jewish Response to Hunger
National Council of Jewish Women Los Angeles
Office of Assemblymember Laura Friedman
Progressive Zionists of California
San Diego for Every Child
Sf Black and Jewish Unity Coalition
United Way California Capital Region
United Ways of California (UWCA)
Ventures
Western Center on Law & Poverty, INC.

OPPOSITION: (Verified 8/15/24)

None received

ASSEMBLY FLOOR: 54-14, 5/23/24
AYES: Addis, Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Connolly, Mike Fong, Friedman, Gabriel, Garcia, Gipson, Grayson, Haney, Hart, 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, Rodriguez, Santiago, Schiavo, Soria, Ting, Ward, Weber, Wilson, Wood, Zbur, Robert Rivas
NOES: Alanis, Chen, Davies, Dixon, Flora, Vince Fong, Gallagher, Hoover, Lackey, Joe Patterson, Sanchez, Ta, Waldron, Wallis
NO VOTE RECORDED: Bains, Cervantes, Megan Dahle, Essayli, Holden, Mathis, Jim Patterson, Luz Rivas, Blanca Rubio, Valencia, Villapudua, Wicks

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

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THIRD READING

Bill No: AB 2348
Author: Ramos (D)
Amended: 8/28/24 in Senate
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 5-0, 8/29/24
AYES: Wahab, Seyarto, Bradford, Skinner, Wiener

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/30/24
AYES: Caballero, Jones, Ashby, Becker, Bradford, Seyarto, Wahab

ASSEMBLY FLOOR: Not relevant

SUBJECT: California Emergency Services Act: notification systems: Feather Alert

SOURCE: Author

DIGEST: This bill revises the changes proposed by AB 1863 (Ramos 2024) to include a 24-hour requirement for law enforcement to make a determination as to whether a missing person report meets the requirement to issue a Feather alert, and if the determination is not made within 24 hours, a Tribe of California can make a request to issue the alert directly to CHP.

ANALYSIS:

Senate Floor Amendments of 8/28/24, gutted and amended to include the 24-hour requirement mentioned above in the digest.

Existing law:

1) Authorizes the CHP to activate a "Feather Alert" upon request by a law enforcement agency and the following requirements are met:

   a) The missing person is an indigenous woman or an indigenous person;

b) The investigating law enforcement agency has utilized available and tribal resources;

c) The law enforcement agency determines that the person has gone missing under unexplained or suspicious circumstances;

d) The law enforcement agency determines that the person is in danger because of age, health, mental or physical disability, environment or weather conditions, that the person is in the company of potentially dangerous person, or there are other factors that indicate that the person might be in peril; and,

e) There is information available that, if disseminated to the public could assist in the safe recovery of the missing person. (Gov. Code § 8594.13 (c).)

2) Provides that if the CHP determines that the conditions for the activation of a "Feather Alert" are met, it shall activate the alert in the appropriate geographical area requested by the investigating law enforcement agency. (Gov. Code § 8594. 13 (b) (1).

3) States that the CHP may use a changeable message system if the law enforcement determines that a vehicle was used in the incident and there is specific identifying information about the vehicle. (Gov. Code § 8594.13 (b) (4).

4) Defines "Feather Alert" as an activation system designed to issue and coordinate alerts with endangered or indigenous people, specifically indigenous women, who are reported missing under unexplained or suspicious circumstances. (Gov. Code § 8594.13 (a).)

5) Provides that the CHP shall create and submit a report to the Governor's office and the Legislature that includes an evaluation of the Feather Alert, including the efficacy, the advantages, and the impact of other alert programs. The CHP shall submit the report to the Governor's office and the Legislature no later than January 1, 2027. (Gov. Code § 8594.13 (d).

6) States that if an abduction has been reported to a law enforcement agency and the agency determines that a child 17 years of age or younger, or an individual with a proven mental or physical disability, has been abducted and is in imminent danger of serious bodily injury or death and there is information available that, if disseminated to the general public, could assist in the safe recovery of the victim, the agency, through a person authorized to activate the

Emergency Alert System (EAS), shall request the activation of the EAS within the appropriate local area. (Gov. Code, § 8594 (a).)

7) Provides that CHP in consultation with the Department of Justice, as well as a representative from the California State Sheriffs' Association (CSSA), the California Police Chiefs' Association and the California Police Officers' Association shall develop policies and procedures providing instructions specifying how law enforcement agencies, broadcasters participating in the EAS, and where appropriate, other supplemental warning systems, shall proceed after qualifying abduction has been reported to a law enforcement agency. (Gov. Code, § 8594 (b).)

8) Defines a "Blue Alert" as a quick response system designed to issue and coordinate alerts following an attack upon a law enforcement officer, as specified. (Gov. Code, § 8594.5, (a).)

9) Provides that in addition to the circumstances described under existing law relating to "Amber Alerts", upon the request of an authorized person at a law enforcement agency that is investigating an offense, the CHP shall activate the EAS and issue a blue alert if all of the following conditions are met:

   a) A law enforcement officer has been killed, suffers serious bodily injury, or is assaulted with a deadly weapon, and the suspect has fled the scene of the offense;

   b) A law enforcement agency investigating the offense has determined that the suspect poses an imminent threat to the public or other law enforcement personnel;

   c) A detailed description of the suspect's vehicle or license plate is available for broadcast;

   d) Public dissemination of available information may help avert further harm or accelerate apprehension of the suspect; and,

   e) The CHP has been designated to use the federally authorized EAS for the issuance of blue alerts. (Gov. Code, § 8594.5 (b).)

10) Provides that the "Blue Alert" system incorporates a variety of notification resources and developing technologies that may be tailored to the circumstances and geography of the underlying attack. The blue alert system shall utilize the state-controlled Emergency Digital Information System, (EDIS) local digital signs, focused text, or other technologies, as appropriate, in addition to the

federal EAS, if authorized and under conditions permitted by the federal government. (Gov. Code, § 8594.5 (c).)

11) Defines a "Silver Alert" as a notification system, that can be activated as specified, and is designed to issue and coordinate alerts with respect to a person 65 years of age or older who is reported missing. (Gov. Code, § 8594.10 (a)).

12) Provides that if a person is reported missing to a law enforcement agency, and that agency determines that specified requirements are met, the agency may request the CHP to activate a "Silver Alert". If the CHP concurs that the specified requirements are met, it shall activate a "Silver Alert" within the geographical area requested by the investigating law enforcement agency. (Gov. Code § 8594.10. (c).)

13) States that a law enforcement agency may request a "Silver Alert" be activated if that agency determines that all of the following conditions are met in regard to the investigation of the missing person:

a) The missing person is 65 years of age or older;

b) The investigating law enforcement agency has utilized all available local resources;

c) The law enforcement agency determines that that the person has gone missing under unexplained or suspicious circumstances;

d) The law enforcement agency believes that the person is in danger because of age, health, mental or physical disability, environment or weather conditions, that the person is in the company of a potentially dangerous person, or there are other factors indicating that the person may be in peril; and,

e) There is information available that, if disseminated to the public, could assist in the safe recovery of the missing person. (Gov. Code § 8594.10 (c).)

14) Requires the CHP to create and submit a report to the Governor’s office and the Legislature by January 1, 2027 that includes an evaluation of the Feather Alert, including the efficacy, the advantages, and the impact to other alert programs. (Gov. Code § 8594.13 (d).)

15) Defines sexual battery as the touching of an intimate part of another person, if the touching is against the will of the person touched, and is for the specific purpose of sexual arousal, sexual gratification, or sexual abuse and punishes the

act by imprisonment in the county jail not exceeding 6 months and a fine of up to $1,000. (Pen. Code, § 243.4, subd. (d).)

16) Provides that any person who willfully inflicts corporal injury resulting in a traumatic condition upon a victim, as described, is guilty of a felony. Provides that the punishment is imprisonment in the state prison for two, three, or four years, or in a county jail for not more than one year, or by a fine of up to $6,000, or by both that fine and imprisonment. (Pen. Code, § 273.5, subd. (a).)

17) Provides that the above penalty applies if the victim is or was one or more of the following:

    a) The offender's spouse or former spouse.

    b) The offender's cohabitant or former cohabitant.

    c) The offender's fiancé or fiancée, or someone with whom the offender has, or previously had, an engagement or dating relationship, as defined.

    d) The mother or father of the offender's child. (Pen. Code, § 273.5, subd. (b).)

This bill:

1) Requires a law enforcement agency to make a determination as to whether a missing person report meets the requirements for a Feather Alert to be issued within 24 hours of receiving the initial report.

2) Clarifies that if the law enforcement agency does not make a determination within 24 hours, a Tribe of California may make the request to issue a Feather Alert directly to CHP.

Background

Murdered or Missing Indigenous Persons (MMIP) in California and the U.S. The problem of MMIP reaches across state lines. In 2018, the Urban Indian Health Institute (UIHI) published a study addressing MMIP titled Missing and Murdered Indigenous Women & Girls, A snapshot of date from 71 urban cities in the United States. (Available at: https://www.uihi.org/wp-content/uploads/2018/11/Missing-and-Murdered-Indigenous-Women-and-Girls-Report.pdf [as of Mar. 26, 2024].) They state in part, "the National Crime Information Center reports that, in 2016, there were 5,712 reports of missing American Indian and Alaska Native women and girls, though the US Department of Justice's federal missing persons database, NamUs, only logged 116 cases." (Missing and Murdered Indigenous Women &

Girls, supra, at p. 2.) The lack of information, underreporting, and misinformation on MMIPs leads to various discrepancies as to how local, state, and federal agencies responds to this ongoing crisis. The UIHI tried, repeatedly, to gather information from various sources including, but not limited to, law enforcement agencies, state and national databases, and media coverage regarding MMIP. Some sources either did not respond or found it to laborious to produce or provide information for MMIP.

In their report, the UIHI states, "As demonstrated by the findings of this study, reasons for the lack of quality data include underreporting, racial misclassification, poor relationships between law enforcement and American Indian and Alaska Native communities, poor record-keeping protocols, institutional racism in the media, and a lack of substantive relationships between journalists and American Indian and Alaska Native communities. In an effort to collect as much case data as possible and to be able to compare the five data sources used, UIHI collected data from Freedom of Information Act (FOIA) requests to law enforcement agencies, state and national missing persons databases, searches of local and regional news media online archives, public social media posts, and direct contact with family and community members who volunteered information on missing or murdered loved ones." (Missing and Murdered Indigenous Women & Girls, supra, at p. 4.)

According to a memo produced by the Yurok Tribe in Partnership with Strong Hearted Native Women's Coalition, provided to this committee by the author, Recommendations for Federal and State Leaders Addressing the Crisis of Missing and Murdered Indigenous People, "California has over 109 federally recognized native tribes, and has the largest population of Native Americans of any state in the United States and the fifth largest caseload of Missing and Murdered Indigenous People (MMIP)." The report gives direct insight into the needs of indigenous groups who live and reside in California. The memo makes recommendations specifically for California, including the creation of a Red Ribbon Panel to address MMIP.

This bill seeks to refine the existing system in California that is responsible for locating missing indigenous persons by better specifying the conditions required to activate a Feather Alert and providing more transparency when activation requests are denied. By creating standardized policies among various levels of law enforcement agencies and tribal nations, this bill would increase understanding of the system and allow improved collaboration among the agencies responsible for locating missing persons. This bill would also produce more data regarding missing indigenous persons and the impact that the Feather Alert on finding

missing indigenous persons. When considering that there is a clear lack of data in this space, this bill could potentially provide much needed information.

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

SUPPORT: (Verified 8/30/24)

None received

OPPOSITION: (Verified 8/30/24)

None received

Prepared by: John Duncan / PUB. S. /
8/30/24 17:27:01

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

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THIRD READING

Bill No: AB 2416
Author: Connolly (D)
Amended: 8/23/24 in Senate
Vote: 21

SENATE INSURANCE COMMITTEE: 6-0, 6/26/24
AYES: Rubio, Alvarado-Gil, Caballero, Cortese, Dodd, Ochoa Bogh
NO VOTE RECORDED: Niello

ASSEMBLY FLOOR: 51-14, 5/22/24 - See last page for vote

SUBJECT: Residential property insurance: wildfire risk

SOURCE: Author

DIGEST: This bill requires the department, on or before January 1, 2030, and every five years thereafter, to consider whether or not to update its regulations to include additional building hardening measures for property-level mitigation efforts and communitywide wildfire mitigation programs As part of this consideration, the bill would require the department to consult with specified agencies to identify additional building hardening measures to consider, as well as to develop and implement a public participation process during the evaluation.

Senate Floor Amendments of 8/23/24 delete the specific examples of building materials from the intent language of the bill.

ANALYSIS:

Existing law:

1) Regulates, generally, the classes of insurance including property and fire insurance.

2) Creates the Department of Insurance, headed by the Insurance Commissioner, and prescribes the department's powers and duties.

3) Prohibits, under existing department regulations, an insurer from using a rating plan that does not take into account and reflect specified wildfire risk mitigation, including property-level building hardening measures.

4) Provides for the regulation of insurers, agents, and brokers, and other insurance-like organizations by the Insurance Commissioner (Commissioner), and imposes a broad range of financial solvency, licensing, and market behavior requirements, as set forth in the Insurance Code.

5) Establishes the "Safer from Wildfires" Framework.

6) Requires the State Fire Marshal (SFM) to biennially prepare and publish listings of construction materials and equipment and methods of construction and of installation of equipment, together with the name of any person, firm, corporation, association, or similar organization designated as the manufacturer, representative, or supplier, which are in conformity with building standards relating to fire and panic safety adopted and published in the State Building Standards Code.

This bill requires the California Department of Insurance (CDI), on or before January 1, 2030, and every five years thereafter, to evaluate CDI's Safer from Wildfires framework to include additional building hardening measures for property-level mitigation efforts and communitywide wildfire mitigation programs. Specifically, this bill:

1) Requires CDI, as part of its first evaluation, to evaluate whether to update the Safer from Wildfires regulations to include in the regulations the installation of construction materials included by the Office of the SFM on the Building Materials Listing (BML).

2) Allows CDI, in its first evaluation, to evaluate whether to include the installation of additional construction materials included by the Office of the SFM on the BML.

3) Requires CDI as part of its evaluation to do both of the following: a) Consult with the California Office of Emergency Services (Cal OES), the California Department of Forestry and Fire Protection (CAL FIRE), the California Public Utilities Commission (CPUC), and the Office of Planning and Research to identify additional building hardening measures for property-level mitigation efforts and communitywide wildfire mitigation programs to consider as part of its evaluation. b) Consult with relevant stakeholders to consider as part of its evaluation any potential revisions to the Safer from Wildfires regulations.

4) Requires CDI to develop and implement a process that allows public participation that includes, at a minimum, all of the following:

   a) Holding at least one public meeting to allow interested persons to submit suggestions for additional building hardening measures for property-level mitigation efforts and communitywide wildfire mitigation programs for CDI to consider as part of its evaluation;

   b) Making available for public review and comment, including during at least one public meeting, a preliminary list of building hardening measures for property-level mitigation efforts and communitywide wildfire mitigation programs being considered by CDI for inclusion in the Safer from Wildfires regulations;

   c) Making available to the public a final list of building hardening measures for property-level mitigation efforts and communitywide wildfire mitigation programs CDI proposes to include in the list of building hardening measures identified in the Safer from Wildfires regulations before amending the regulations; and

   d) Requires, if CDI makes public, a final list of building hardening measures for property-level mitigation efforts and communitywide wildfire mitigation programs to be included in the list of building hardening measures to initiate the Administrative Procedure Act rulemaking process to amend the Safer from Wildfires regulations within 30 days of publishing the final list.

5) Defines "building materials listing," "noncombustible," "and "Safer from Wildfires regulations."

6) Makes finding and declarations.

Background

As the Legislature, Governor, and the Department of Insurance work to solve California's home insurance crisis, we must focus on providing real benefits and incentives to those who are working their hardest to keep their homes and families safe from wildfires. As new and safer building materials come to market and wildfire prevention methods evolve, it is important that we periodically revisit the regulations and evaluate if they capture the best mitigation practices available and if the regulations are offering as much relief as possible to the people who are doing the right thing. This bill represents a reasonable step the Legislature can take to help consumers save money on their insurance bills and reduce the risk of disaster for vulnerable communities and the families that live there.

Comments

California Safer from Wildfires California Safer from Wildfires is a comprehensive, multi-agency initiative established to enhance wildfire safety and preparedness. In October 2019, Insurance Commissioner Ricardo Lara convened a virtual investigatory hearing to initiate a series of regulatory actions aimed at protecting residents from the increasing risk of wildfires. Three years later, in October 2022, Commissioner Lara unveiled the Safer From Wildfire regulations as the first in the nation requiring insurance companies to provide discounts to consumers. The regulation is now state law and enshrined in the California Code of Regulations. The regulations involve collaboration among several state agencies, including CAL FIRE, CPUC, Cal OES, and CDI. These regulations have only been in effect for less than two years, so they are still in their infancy stages. The primary objectives of the Safer from Wildfires initiative include:

a) Reducing Wildfire Risk: Implementing measures to reduce the risk of wildfires through vegetation management, controlled burns, and other fuel reduction strategies.

b) Infrastructure Hardening: Enhancing the resilience of critical infrastructure, such as power lines and communication systems, to prevent them from igniting wildfires or being damaged by them.

c) Improving Emergency Response: Strengthening the state's emergency response capabilities to ensure rapid and effective action during wildfire incidents. This includes better coordination among agencies, improved communication systems, and increased resources for firefighting efforts.

d) Community Preparedness: Educating and preparing communities to respond to wildfires. This involves public awareness campaigns, evacuation planning, and encouraging the creation of defensible space around homes and properties.

e) Insurance and Financial Protections: Ensuring that homeowners and communities have access to adequate insurance coverage and financial resources to recover from the impacts of wildfire.

f) Regulations and Policies: Developing and enforcing regulations and policies that support wildfire risk reduction and safety measures, including building codes, land-use planning, and utility regulations.

The initiative developed 10 steps consumers can take to make their homes safer from wildfires:

a) Class-A fire rated roof – Most roofs qualify including asphalt shingles, concrete, brick, or masonry tiles, and metal shingles or sheets. Wood shake shingles are not Class A fire-resistant rated.

b) Five foot ember resistant zone, including fencing – Removing greenery and replacing wood chips with stone or decomposed granite five feet around your home prevents fire from getting a foot in the door. Replacing wood fencing connecting to your home with metal is critical because it can act like a candle wick leading fire straight to your home.

c) Ember- and fire-resistant vents – Installing 1/16 to 1/8 inch noncombustible, corrosion-resistant metal mesh screens over exterior vents can keep wind-blown embers out of your house.

d) Non-combustible six inches at the bottom of exterior walls – Having a minimum of six vertical inches measured from the ground up and from any attached horizontal surface like a deck can stop embers from accumulating and igniting your walls. Noncombustible materials include brick, stone, fiber-cement siding or concrete.

e) Enclosed eaves – Installing soffits under your eaves can prevent heat and embers from getting trapped and igniting. When enclosing eaves, non-combustible or ignition resistant materials are recommended.

f) Upgraded windows – Multi-paned windows are more resistant to breaking during a wildfire, which helps keep flames from entering. Multi-paned glass or added shutters all qualify.

g) Cleared vegetation, weeds, and debris from under decks – Noncombustible materials like concrete, gravel, or bare soil are permitted.

h) Removal of combustible sheds and other outbuildings to at least a distance of 30 feet – These include sheds, gazebos, accessory dwelling units (ADUs), open covered structures with a solid roof, dog houses, and playhouses.

i) Defensible space compliance – following state and local laws requiring defensible space including trimming trees and removal of brush and debris from yard.

j) Being safer together – Safer from Wildfires recognizes two community-wide programs, Firewise USA and Fire Risk Reduction Communities as small as eight dwelling units or as big as 2,500 can create an action plan and start

being safer together. Firewise USA is a nationally recognized program with proven results, sponsored by the National Fire Prevention Association.

Chapter 7A of the California Building Standards Code. Chapter 7A is California's Wildland-Urban Interface (WUI) building code. As such, this chapter of the building code establishes the minimum standards applicable to building materials, systems and/or assemblies used in the exterior design and construction of new buildings located within a WUI Fire Area for the protection of life and property. Chapter 7A was initially adopted in 2008 and has undergone multiple revisions as part of the iterative code development process, integrating the most recent insights and scientific advancements from technical experts in the field. Evidence has indicated Chapter 7A provisions effectively mitigate against losses due to wildfire. Homes built prior to the adoption of Chapter 7A in the WUI are less likely to survive wildfire, and these homes make up a large percentage of the homes in high fire severity areas.

State Fire Marshal's Building Materials Listing Program. The SFM's BML Program was initially established to mandate approval and listing of fire alarm systems and devices before their sale or marketing in the state. Over time, it expanded to include various materials, such as roof coverings, wall assemblies, hardware, and more. Product approval involves rigorous testing, and companies must utilize SFM accredited laboratories for testing to list products in California. The SFM listing service provides essential information to building authorities, architects, engineers, contractors, and the fire service. In addition, the SFM publishes a complementary handbook to the BML that specifically details products that have been assessed and validated by the SFM to meet the requirements of Chapter 7A. The items featured in this WUI handbook are categorized into eight primary groups. While these products undergo thorough performance-based testing to earn their listing on the BML as a WUI product, it is important to recognize that products not listed on the BML or included in this handbook may still adhere to the prescriptive standards outlined in Chapter 7A, as there is no legal requirement to list WUI products with the SFM.

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

SUPPORT: (Verified 8/13/24)

California Democratic Party
City of Santa Rosa
County of Marin
North American Insulation Manufacturers Association

Northern California Youth Policy Coalition
United Policyholders

OPPOSITION: (Verified 8/22/24)

California Building Industry Association
Western Wood Preservers Institute

ARGUMENTS IN SUPPORT: The California Democratic Party stated that "California Democrats are committed to rebuilding a State that provides every person with fair access to improving their lives through good paying jobs, affordable housing, quality education, universal and exceptional healthcare, racial justice and equitable protection against the impacts of climate change. AB 2416 upholds these values and for that [reason], the California Democratic Party is proud to support this important piece of legislation".

North American Insulation Manufacturers Association contend that "adding BML certified product categories of noncombustible insulation, exterior wall sheathing for Wildland Urban Interface (WUI), and non-wood roof covering/assemblies for WUI, which are recognized by the State Fire Marshal as providing a higher level of fire safety, to the home hardening measures specified in the Safer from Wildfires regulations will accelerate the adoption of BML-certified building materials and better position consumers for access to property insurance and potential rate relief."

ARGUMENTS IN OPPOSITION: The Western Wood Preservers Institute and the CBIA argue that "all materials approved on the State Fire Marshal's Building Materials Listing and deemed to comply with Chapter 7A should be considered viable options to improve the resilience of properties across the state. Furthermore, all materials complying with the provisions of Chapter 7A – regardless of their listing status – should be considered viable options for home hardening, because the State Fire Marshal Listed WUI Handbook itself highlights that 'products that are not [Building Materials Listing] listed, nor in this handbook, may still comply with the prescriptive standards of Chapter 7A'. As such, while the intent of this bill is laudable, the currently proposed language would inadvertently circumvent the State's building code and may lead to design control which could severely limit options – and increase costs – for home hardening without any corresponding increase in safety."

ASSEMBLY FLOOR: 51-14, 5/22/24
AYES: Addis, Aguiar-Curry, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Juan Carrillo, Wendy Carrillo, Connolly, Mike Fong, Gabriel, Garcia, Gipson, Haney, Hart, Irwin, Jackson, Jones-Sawyer, Kalra, Lee, Low, Lowenthal, Maienschein, McCarty, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Pellerin, Petrie-Norris, Quirk-Silva, Rendon, Reyes, Blanca Rubio, Santiago, Schiavo, Soria, Ting, Villapudua, Ward, Weber, Wicks, Wood, Zbur, Robert Rivas
NOES: Alanis, Chen, Davies, Dixon, Flora, Vince Fong, Gallagher, Hoover, Jim Patterson, Joe Patterson, Sanchez, Ta, Waldron, Wallis
NO VOTE RECORDED: Calderon, Cervantes, Megan Dahle, Essayli, Friedman, Grayson, Holden, Lackey, Mathis, McKinnor, Ramos, Luz Rivas, Rodriguez, Valencia, Wilson

Prepared by: Jill Rice / INS. / (916) 651-4110
8/25/24 13:35:30

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

SENATE RULES COMMITTEE
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 2441
Author: Kalra (D), et al.
Amended: 8/23/24 in Senate
Vote: 21

SENATE EDUCATION COMMITTEE: 5-2, 7/3/24
AYES: Newman, Cortese, Glazer, Gonzalez, Smallwood-Cuevas
NOES: Ochoa Bogh, Wilk

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 41-22, 5/23/24 - See last page for vote

SUBJECT: School safety: mandatory notifications

SOURCE: ACLU California Action
Alliance for Boys and Men of Color
Black Organizing Project
Disability Rights California
Dolores Huerta Foundation
Public Counsel

DIGEST: This bill clarifies willful disturbances at a public school meeting does not apply to students enrolled in the school district at the time of the willful disturbance and requires a school principal, or their designee, to report incidents, as specified to law enforcement.

Senate Floor Amendments of 8/23/24 removes the amendments made to section 44014 of the education code and reverts section 44014 of the education code back to existing law, requiring mandatory notification to law enforcement if a pupil attacks, assaults, or physically threatens an employee of a school district or of the office of a county superintendent of schools.

ANALYSIS:

Existing law:

1) Provides that any person who willfully disturbs any public school or any public school meeting is guilty of a misdemeanor, and shall be punished by a fine of not more than $500 and requires local educational agencies (LEAs) notify law enforcement. (Education Code (EC) § 32210)

2) Requires the principal of a school, or their designee, shall notify law enforcement of any acts of a pupil that may involve the possession or sale of narcotics or of a controlled substance. (EC § 48902)

3) Requires the principal or superintendent of schools to immediately suspend and recommend expulsion of a pupil that he or she determines has committed any of the following acts at school or at a school activity off school grounds:

   a) Possessing, selling, or otherwise furnishing a firearm, as specified.

   b) Brandishing a knife at another person.

   c) Unlawfully selling of controlled substances, as specified in Chapter 2 (commencing with Section 11053) of the Health and Safety Code.

   d) Committing or attempting to commit a sexual assault as specified.

   e) Possession of an explosive. (EC § 48915)

4) Establishes the Gun-Free School Zone Act of 1995, as specified. (Penal (PEN) Code § 626.9)

5) Any person, except a duly appointed peace officer a full-time paid peace officer of another state or the federal government who is carrying out official duties while in this state, a person summoned by any officer to assist in making arrests or preserving the peace while the person is actually engaged in assisting any officer, or a member of the military forces of this state or the United States who is engaged in the performance of his or her duties, who brings or possesses any dirk, dagger, ice pick, knife having a blade longer than $2^1/_2$ inches, folding knife with a blade that locks into place, razor with an unguarded blade, taser, or stun gun, any instrument that expels a metallic projectile, such as a BB or a pellet, through the force of air pressure, CO2 pressure, or spring action, or any spot marker gun, upon the grounds of, or within, any public or private school

providing instruction in kindergarten or any of grades 1 to 12, inclusive, is guilty of a public offense, punishable by imprisonment in a county jail not exceeding one year, or by imprisonment as specified. (Pen Code § 626.10 (a))

This bill:

1) Clarifies existing law regarding any person who willful disturbances a public school meeting, does not apply to a pupil who is enrolled in the school district at the time of the willful disturbance.

2) Requires the principal of a school or the principal's designee to notify law enforcement if a pupil sells, rather than possesses or sells as stipulated in statute, of a narcotic or controlled substance.

3) Requires the principal of a school or the principal's designee to notify law enforcement if a pupil possesses a firearm, weapon, or knife, as specified, or possesses, sells, or furnishes, a firearm; brandishes a knife at another person; unlawfully sells a controlled substance, as specified, commits or attempts to commit sexual assault, or possess an explosive.

Comments

1) *Need for the bill.* According to the author, "For far too long, the over-policing of children in our public schools has fueled the school-to-prison pipeline, and it is time to end this harmful practice and protect future generations of students. Research shows that there are long-term effects on youth when they come in contact with law enforcement, juvenile, or criminal legal systems. Students are less likely to graduate high school and more likely to wind up in jail or prison if they make contact with law enforcement. Our existing system has led to alarming disparities in the type of students who are most likely to suffer from these actions. Black students, Latino students, students of color, and students with disabilities are disproportionately referred to law enforcement, cited, and arrested. Referring students to law enforcement will only cause further harm to the minor than correcting their behavior or addressing the issue.

   "Teachers and staff still retain the right to call law enforcement if they feel that is the right response. However, giving California educators the flexibility to support students with alternative methods and needed services for their behavioral issues will give students an opportunity to get the help and resources they need. These laws require notification regardless of the particular

circumstances of the incident or the individual student's situation. Furthermore, California students can also be criminally prosecuted for "willful disturbance" of public schools or public school meetings. This provision has led to students being arrested for offenses such as knocking on classroom doors during class. "

"AB 2441 is the next step to keep students in the classroom where they can safely learn and thrive. This bill will eliminate some state mandates for schools to notify law enforcement, thereby empowering schools to adopt non-punitive, supportive, trauma-informed, and health-based approaches to school-related behaviors, which will give educators the flexibility to determine when to notify law enforcement, eliminate prosecution of school staff who choose to not report incidents, and eliminate the criminal penalty against students for "willful disturbance" of public schools and public school meetings."

2) *Guns Free Schools Act (GFSA) of 1994.* In 1994, Congress passed the Gun-Free Schools Act, which required states receiving federal funds to enact legislation requiring LEAs to expel, for at least one year, any student who is determined to have brought a firearm or weapon to school. The GFSA further required LEAs to develop policies requiring referral to the criminal justice or juvenile delinquency system for any student who brings a firearm or weapon to school. In a law review published the by University of Illinois Chicago (UIC), they found that "deterring violence and disruptive outbursts can be an important part of maintaining classroom order and safety, both of which are important goals in educational environments. However, by outlawing otherwise normal behavior and calling it disruptive, zero tolerance policies have created an environment where children are not students who are there to learn, but are treated as suspected criminals." Since 2010, the Legislature has made tremendous strides in removing zero-tolerance policies while ensuring student and employee safety.

   This bill would require the principal of a school or the principal's designee to notify law enforcement if a pupil sells, rather than possesses or sales as stipulated in statute, of a narcotic or controlled substance. Furthermore, require the principal of a school or the principal's designee to notify law enforcement if a pupil possess a firearm, weapon, or knife, as specified, or possesses, sells, or furnishes, a firearm; brandishes a knife at another person; unlawfully sells a controlled substance, as specified, commits or attempts to commit sexual assault, or possess an explosive.

3) *Students Of Color Are Disproportionally Suspended or Expelled.* A 2018 report by the U.S. Government Accountability Office (GAO) highlighted the disproportionate discipline rates for black students, boys, and students with disabilities in K-12 schools, based on Civil Rights Data Collection (CRDC) data. Despite a 2% decline in overall exclusionary discipline practices in U.S. public schools from 2015-16 to 2017-18, there was an increase in school-related arrests, expulsions with educational services, and referrals to law enforcement. According to the report, the disproportionate disciplinary actions result from implicit bias among teachers and staff, leading to differential judgment of student behaviors based on race and sex.

4) *Progress in California's Suspension and Expulsion Rates, But Disproportionality Still Remains.* Data from the CDE shows that while the number of suspensions and expulsions decreased over the 10-year period from 2012-13 to 2022-23, the number of African American students suspended or expelled remains significantly above their proportionate enrollment:

   a) Total suspensions for all offenses dropped 44%, from 609,810 to 337,507;

   b) African American students made up 6% of enrollment in 2012-13 and 5% in 2022-23, but received 19% of total suspensions in 2012-13 and 15% in 2022-23;

   c) Total expulsions dropped by 44% over the 10-year period, from 8,564 in 2012-13 to 4,750 in 2022-23; and

   d) African American students accounted for 13% of total expulsions in 20212-13 and 12% in 2022-23.

5) *Restorative Justice in Schools.* In a 2019 study conducted by WestEd, Restorative Justice in U.S. Schools, "Educators across the United States have been looking to restorative justice as an alternative to exclusionary disciplinary actions. Two significant developments have partly driven the popularity of restorative justice in schools. First, there is a growing perception that zero-tolerance policies, popular in the United States during the 1980s– 1990s, have harmed students and schools, generally, and had a particularly pernicious impact on Black students and students with disabilities."

   "Restorative justice is viewed as a remedy to the uneven enforcement and negative consequences that many people associate with exclusionary

punishment," according to the study. Exclusionary discipline can leave the victim without closure and fail to resolve the harmful situation. In contrast, because restorative justice involves the victim and the community in the process, it can open the door for more communication and resolutions to problems that do not include exclusionary punishments like suspension. Unlike punitive approaches, which rely on deterrence as the sole preventative measure for misconduct, restorative justice uses community-building to improve relationships, reducing the frequency of punishable offenses while yielding a range of benefits. There are a variety of practices that fall under the restorative justice umbrella that schools may implement. These practices include victim-offender mediation conferences; group conferences; and various circles that can be classified as community-building, peace-making, or restorative."

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

SUPPORT: (Verified 8/26/24)

ACLU California Action (Co-Source)
Alliance for Boys and Men of Color (Co-Source)
Black Organizing Project (Co-Source)
Disability Rights California (Co-Source)
Dolores Huerta Foundation (Co-Source)
Public Counsel (Co-Source)
Alliance for Children's Rights
Asian Americans Advancing Justice-Southern California
Association of California School Administrators
Back to the Start
Bill Wilson Center
Brothers, Sons, Selves
California Black Power Network
California Federation of Teachers
California Immigrant Policy Center
California School-Based Health Alliance
California Youth Empowerment Network
Californians for Justice
Cancel the Contract
Center for Public Interest Law/Children's Advocacy Institute/University of San Diego
Center on Juvenile and Criminal Justice
Children Now
Children's Defense Fund-California

Chispa
Communities United for Restorative Youth Justice
Courage California
Culver City Democratic Club
East Bay Community Law Center
Equal Justice Society
Fresh Lifelines for Youth
Indivisible CA StateStrong
Initiate Justice
Mental Health America of California
National Center for Youth Law
National Health Law Program
On the Move
Orange County Justice Initiative
Pacific Juvenile Defender Center
Public Advocates
Santa Clara County Office of Education
Small School Districts Association
Social Justice Learning Institute
Southeast Asia Resource Action Center
The Children's Partnership
The Collective for Liberatory Lawyering
Youth Justice Education Clinic, Center for Juvenile Law and Policy, Loyola Law School

OPPOSITION: (Verified 8/26/24)

Administrators Association of San Diego City Schools
California Police Chiefs Association
California State Sheriffs' Association
Peace Officers Research Association of California
Sacramento County Sheriff Jim Cooper

ARGUMENTS IN SUPPORT: According to the American Civil Liberties Union California Action, "California's Education Code contains outdated zero-tolerance mandates for law enforcement involvement in student behavioral issues. These mandates force teachers, school administrators, and staff to notify law enforcement about all instances of several categories of student behavior, even when the educator would prefer to address the issue with more effective alternative approaches. AB 2441 makes positive and commonsense changes to existing law. First, the bill protects students from criminal charges for "willful disturbance" of a

school or school meeting. Closing this loophole will protect students from being criminally prosecuted for age-appropriate behavior, such as knocking on classroom doors or running inside a school. Second, the bill amends some of the Education Code's mandatory notification requirements, changing law enforcement notifications for two categories of student behaviors from mandatory to optional. Educators still retain their right to engage law enforcement in response to behavior if they choose. The first category of behavior covered by this part of AB 2441 is instances of student possession or use of alcohol or controlled substances (not sale or distribution of those substances). This Legislature has affirmed in recent legislation that youth substance use is a public health issue, not a criminal issue, and deserves a health-focused response."

ARGUMENTS IN OPPOSITION: According to the Peace Officers' Research Association of California (PORAC), "AB 2441 is a problematic bill because in a case where a student assaults a teacher, the student will not be held accountable for their actions. This bill removes the requirement to report these incidents and merely turns it into a suggestion. Mandatory notifications and positive law enforcement encounters protect all parties involved. This legislation is bad and may result in more egregious behavior by students without consequences and more potential violent incidents, up to and including death, on our campuses."

ASSEMBLY FLOOR: 41-22, 5/23/24
AYES: Addis, Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bonta, Bryan, Juan Carrillo, Connolly, Mike Fong, Friedman, Gabriel, Garcia, Haney, Hart, Jackson, Jones-Sawyer, Kalra, Lee, Low, Lowenthal, McCarty, McKinnor, Muratsuchi, Ortega, Papan, Pellerin, Quirk-Silva, Rendon, Reyes, Santiago, Ting, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas
NOES: Alanis, Bains, Chen, Davies, Dixon, Flora, Vince Fong, Gallagher, Grayson, Hoover, Irwin, Lackey, Pacheco, Jim Patterson, Joe Patterson, Petrie-Norris, Ramos, Rodriguez, Sanchez, Ta, Waldron, Wallis
NO VOTE RECORDED: Boerner, Calderon, Wendy Carrillo, Cervantes, Megan Dahle, Essayli, Gipson, Holden, Maienschein, Mathis, Stephanie Nguyen, Luz Rivas, Blanca Rubio, Schiavo, Soria, Valencia, Villapudua

Prepared by: Kordell Hampton / ED. / (916) 651-4105
8/26/24 17:01:12

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

SENATE RULES COMMITTEE AB 2460
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2460
Author: Ta (R)
Amended: 5/20/24 in Assembly
Vote: 21

SENATE HOUSING COMMITTEE: 10-0, 6/18/24
AYES: Skinner, Ochoa Bogh, Blakespear, Caballero, Cortese, Menjivar, Padilla, Seyarto, Umberg, Wahab

ASSEMBLY FLOOR: 58-1, 5/24/24 - See last page for vote

SUBJECT: Common interest developments: association governance: member election

SOURCE: Community Associations Institute - California Legislative Action Committee

DIGEST: This bill clarifies requirements for common interest development (CID) board of director elections that must be rescheduled due to failure to achieve a quorum.

ANALYSIS:

Existing law:

1) Establishes the Davis-Stirling Common Interest Development Act, which provides rules and regulations governing the operation of residential CIDs and the rights and responsibilities of homeownership associations (HOAs) and HOA members.

2) Requires HOAs, in elections of directors and recall elections, to provide a general notice regarding the election at least 30 days before ballots are distributed.

3) Requires ballots and two preaddressed envelopes with instructions on how to return ballots to be mailed by first-class mail or delivered by the association to every member no less than 30 days prior to the deadline for voting. Requires HOAs to use procedures used by California counties for ensuring confidentiality of vote by mail ballots, as specified.

4) Requires a quorum for elections of director and recall elections only if so stated in the HOA's governing documents or other provisions of law. If a quorum is required by the governing documents, each ballot received by the inspector of elections shall be treated as a member present at a meeting for purposes of establishing a quorum.

5) Requires, for incorporated HOAs, a quorum at a meeting of members to be one-third of the voting power, represented in person or by proxy. Authorizes corporation bylaws to set a different quorum subject to specified restrictions.

6) For HOAs that require a quorum for elections of directors, and in the absence of a quorum, authorizes the board to call a subsequent meeting at least 20 days after a scheduled election if the quorum is not met, at which time the quorum will be 20% of the HOA's members voting in person, by proxy, or by secret ballot.

This bill:

1) Clarifies that if a subsequent meeting must be held for an election of directors due to failure to attain a quorum, the HOA (rather than the CID) may call a reconvened meeting to be held at least 20 days after the scheduled election.

2) Requires the general election notice sent to HOA members to include a statement that if a quorum is not attained, the HOA may call a reconvened meeting to be held at least 20 days after the initial meeting, which will require a quorum of 20% of the HOA's members voting in person, by proxy, or by secret ballot.

3) Provides that the requirements in 1) and 2) do not apply if the HOA's governing documents provide for a quorum of less than 20% of the HOA's members.

4) Clarifies that an HOA may call a reconvened meeting for an election of directors due to failure to attain a quorum, rather than being restricted to holding an election at a membership meeting.

Background

CIDs and the Davis-Stirling Act. CIDs are a type of housing with separate ownership of housing units that also share common areas and amenities. There are a variety of different types of CIDs, including condominium complexes, planned unit developments, and resident-owned mobilehome parks. In recent years CIDs have represented a growing share of California's housing stock. Data from 2019 indicates that there are an estimated 54,065 CIDs in the state made up of 5 million units, or about 35% of the state's total housing stock.

CIDs are regulated under the Davis-Stirling Act as well as the governing documents of the HOA, including the bylaws, declaration, and operating rules. Additionally, HOAs are governed by a board of directors elected by the membership. HOA boards have a number of duties and powers, including determining the annual assessments members must pay in order to cover communal expenses. The board enforces the community rules and can propose and make changes to those rules.

Comments

1) *Author's statement*. According to the author, "AB 2460 would clarify the correct vocabulary as defined by the California Department of Real Estate when it comes to proceeding with a Board of Directors election for a Homeowners Association."

2) *HOA elections.* HOAs are required to hold elections for directors when a seat becomes vacant and at least every four years. Quorum is the minimum number of HOA members that must be "present" – either in person or via mailed ballots – in order to make the proceedings of a meeting legally valid. Quorum requirements differ depending on the type of HOA that has been formed and on whether or not quorum is required by the HOA governing documents. In most cases, if quorum is required by an HOA's governing documents, the quorum is a "50% + 1" threshold of members. If an HOA has chosen to incorporate as a nonprofit corporation, state law establishes a quorum at 33% of membership.

3) *Quorum requirements.* According to the California Association of Community Managers and the Community Associations Institute's California Legislative Action Committee (CAI-CLAC), a significant number of HOAs reported having difficulty meeting quorum requirements for board elections. Regardless of quorum rules, board directors must remain in office "until a successor has been elected and qualified." Existing law provides a variety of possible

remedies to address this problem, including declaring an election by acclamation, abolishing a quorum requirement from the governing documents, holding multiple elections, or by having directors resign their seats to create vacancies that can be temporarily filled by appointment. Most or all of these remedies, however, were difficult, costly, or both, to implement. In response, these two organizations co-sponsored AB 1458 (Ta, Chapter 303, Statutes of 2023), which authorized a lower quorum requirement for CID elections of directors under specified circumstances. This bill makes clarifying changes to the provisions of CID law added by AB 1458.

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

SUPPORT: (Verified 7/24/24)

Community Associations Institute - California Legislative Action Committee (Source)

OPPOSITION: (Verified 7/24/24)

Center for Homeowner Association Law

ARGUMENTS IN SUPPORT: CAI-CLAC states that this bill provides several needed clarifications to AB 1458. In addition to several technical changes, it clarifies who has the responsibility to call for the reconvened meeting, clarifies that the reconvened meeting does not have to be an annual membership meeting, and adds information about the requirement to call a reconvened meeting to the general election notice requirements. The author notes that this is cleanup language requested by the Governor's Office on behalf of the state Department of Real Estate, which essentially defines the HOA board of directors election process as "reconvening" rather than calling for a new election.

ARGUMENTS IN OPPOSITION: The Center for Homeowner Association Law opposes this bill on the same grounds for which it opposed AB 1458, arguing that it restricts the right of homeowners to vote in board of directors elections. The Center states that this bill should be amended to increase notice requirements for reconvened meetings, require sealed ballots to remain unopened and in the custody of the elections inspector until the reconvened meeting, and limit the number of times a reconvened meeting can be held without calling a new election.

ASSEMBLY FLOOR: 58-1, 5/24/24
AYES: Addis, Aguiar-Curry, Alanis, Arambula, Bains, Bennett, Berman, Boerner, Calderon, Juan Carrillo, Wendy Carrillo, Chen, Connolly, Davies, Dixon, Flora,

Mike Fong, Vince Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Hoover, Irwin, Kalra, Lackey, Low, Lowenthal, Maienschein, McCarty, Stephanie Nguyen, Ortega, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Ramos, Reyes, Rodriguez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Zbur, Robert Rivas

NOES: Lee

NO VOTE RECORDED: Alvarez, Bauer-Kahan, Bonta, Bryan, Cervantes, Megan Dahle, Essayli, Holden, Jackson, Jones-Sawyer, Mathis, McKinnor, Muratsuchi, Quirk-Silva, Rendon, Luz Rivas, Blanca Rubio, Sanchez, Wicks, Wilson, Wood

Prepared by: Hank Brady / HOUSING / (916) 651-4124
8/27/24 13:47:46

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

Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 2471
Author: Jim Patterson (R), et al.
Amended: 8/28/24 in Senate
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 12-0, 6/10/24
AYES: Ashby, Nguyen, Alvarado-Gil, Archuleta, Becker, Dodd, Eggman, Glazer, Menjivar, Niello, Roth, Wilk
NO VOTE RECORDED: Smallwood-Cuevas

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/15/24
AYES: Caballero, Jones, Ashby, Becker, Bradford, Seyarto, Wahab

ASSEMBLY FLOOR: 69-0, 5/22/24 - See last page for vote

SUBJECT: Professions and vocations: public health nurses

SOURCE: Author

DIGEST: This bill deletes the requirement for a public health nurse (PHN), certified by the Board of Registered Nursing (BRN) to renew a PHN certificate and pay a renewal fee, as specified.

Senate Floor Amendments of 8/28/24 address a chaptering conflict.

ANALYSIS:

Existing law:

1) Establishes the BRN, under the Department of Consumer Affairs to provide for the licensure and regulation of the practice of nursing. (BPC §§ 2700 et seq.)

2) States that the Legislature recognizes that public health nursing is a service of crucial importance for the health, safety, and sanitation of the population in all of California's communities. These services currently include, but are not

limited to:

a) Control and prevention of communicable disease.

b) Promotion of maternal, child, and adolescent health.

c) Prevention of abuse and neglect of children, elders, and spouses.

d) Outreach screening, case management, resource coordination and assessment, and delivery and evaluation of care for individuals, families, and communities. (BPC § 2818(a))

3) Prohibits the use of the title "public health nurse" without a PHN certificate issued by the BRN. (BPC § 2818(c))

4) Specifies that the PHN certificate does not expand the scope of practice of a registered nurse. (BPC § 2820)

5) Requires the BRN to set the application fee for the PHN certificate between $300 and $1,000 and the renewal fee between $125 and $500. (BPC § 2816)

This bill deletes the fees for a PHN to renew a certificate with the BRN, and clarifies that a PHN certificate is not subject to renewal.

Background

The BRN is responsible for the licensure and regulation of registered nurses (RN), advanced practice registered nurses (APRN), and for approving nurse educational programs. A PHN is a RN, who meets additional education requirements including a baccalaureate or entry-level master's degree in nursing awarded by a school accredited by a BRN-approved accrediting body and proof of supervised clinical experience. There are equivalency methods for individuals whose baccalaureate or entry-level master's degree in nursing is from non-approved accredited schools and for those who have a baccalaureate degree in a field other than nursing.

PHNs provide direct patient care and services related to maintaining the public and community's health and safety. Historically, the PHN designation was intended to establish uniform titles and training in response to conflicting definitions created by state agencies and private organizations. A PHN certificate does not modify or expand the scope of practice of RNs.

Current law, BPC Section 2818 (c) states that no individual shall hold himself or herself out as a PHN or use a title which includes the term "public health nurse" unless that individual is in possession of a valid PHN certificate issued by the BRN. In order to obtain the certification for designation as a PHN, a PHN must apply and pay an initial certification fee and subsequently renew their PHN certificate. This is in addition to any initial RN application and RN licensure renewal fees.

As noted by the BRN, the PHN renewal requirement and associated fee were set up to mirror the certificate renewal requirements and fees for other APRNs. However, APRNs such as Nurse Practitioners, Certified Nurse Midwives, Certified Registered Nurse Anesthetists, have an expanded scope of practice. While PHNs complete specialized coursework and clinical experience to obtain a certificate, they do not have an expanded scope of practice beyond that of an RN. Consequently, PHNs do not have the same need for a renewal application and fee to maintain that designation. PHNs would still be required to renew their RN license on a biennial basis. This bill removes the current requirement for a PHN to renew their PHN certificate and pay a renewal fee. An applicant for a PHN will still be required to pay an initial application fee to obtain the certificate for PHN designation.

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

According to the Senate Committee on Appropriations, the BRN notes an annual revenue loss of approximately $2.625 million. There are currently 42,000 PHNs and the certificate renewal fee is $125, paid to the BRN on a biennial basis. The BRN notes that resources related to workload for PHN certificate renewals will be redirected to other vital board activities. The Office of Information Services within the Department of Consumer Affairs notes absorbable costs of $4,000 for additional IT workload.

SUPPORT: (Verified 8/26/24)

Board of Registered Nursing
County Health Executives Association of California
County of Mono
Health Officers Association of California
Mariposa County Board of Supervisors
Tulare County
Westhillscollege.com

OPPOSITION: (Verified 8/26/24)

None received

ARGUMENTS IN SUPPORT: Supporters note generally that this bill will help incentivize PHNs to maintain their certification that will help support efforts to address the nursing shortage and strengthen the public health nursing system.

ASSEMBLY FLOOR: 69-0, 5/22/24
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bryan, Juan Carrillo, Wendy Carrillo, Chen, Connolly, Davies, Dixon, Flora, Mike Fong, Vince Fong, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, 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, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Wicks, Wood, Zbur, Robert Rivas
NO VOTE RECORDED: Bonta, Calderon, Cervantes, Megan Dahle, Essayli, Friedman, Holden, Mathis, Luz Rivas, Weber, Wilson

Prepared by: Elissa Silva / B., P. & E.D. /
8/29/24 16:35:28

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

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

THIRD READING

Bill No: AB 2561
Author: McKinnor (D)
Amended: 8/23/24 in Senate
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-1, 7/3/24
AYES: Smallwood-Cuevas, Cortese, Durazo, Laird
NOES: Wilk

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/15/24
AYES: Caballero, Ashby, Becker, Bradford, Wahab
NOES: Jones, Seyarto

ASSEMBLY FLOOR: 51-5, 5/22/24 - See last page for vote

SUBJECT: Local public employees: vacant positions

SOURCE: American Federation of State, County, and Municipal Employees
California Federation of Labor Unions
Service Employees International Union - California

DIGEST: This bill requires a public agency to present the status of vacancies and recruitment and retention efforts during a public hearing before the governing board at least once per fiscal year and entitles the union for a bargaining unit to make a presentation at the public hearing, as specified.

Senate Floor Amendments of 8/23/24 remove meet and confer requirements regarding public agency vacancy rates; require a public agency to make a presentation on the status of vacancies and recruitment and retention efforts during a public hearing, as specified; entitle employee unions to make a presentation at the hearing; and require the public agency to provide specified information regarding the vacancy rates, as specified.

ANALYSIS:

Existing federal law governs collective bargaining in the private sector under the federal National Labor Relations Act (NLRA) but leaves it to the states to regulate collective bargaining in their respective public sectors. (United States Code Title 29 §151 *et seq.*)

Existing state law:

1) Provides several statutory frameworks under California law to provide public employees collective bargaining rights and govern public employer-employee relations. Under the Meyers-Milias-Brown Act (MMBA), existing law promotes full communication between local government public employers and their employees by providing a reasonable method of resolving disputes regarding wages, hours, and other terms and conditions of employment between public employers and public employee organizations. (Government Code (GC) §3500 *et seq.*)

2) Prohibits a public agency from engaging, among others, in any of the following:

    a) Imposing or threatening to impose reprisals on employees, to discriminate or threaten to discriminate against employees, or otherwise to interfere with, restrain, or coerce employees because of their exercise of rights guaranteed by the MMBA.
    b) Refusing or failing to meet and negotiate in good faith with a recognized employee organization.
    c) Dominating or interfering with the formation or administration of any employee organization, contributing financial or other support to any employee organization, or in any way encouraging employees to join any organization in preference to another.
    d) Refusing to participate in good faith in an applicable impasse procedure. (GC §3506.5)

3) Establishes the Public Employment Relations Board (PERB), a quasi-judicial administrative agency charged with administering various statutory frameworks governing employer-employee relations, resolving disputes, and enforcing the statutory duties and rights of public agency employers, employee organizations, and employees, but provides the City, and County, of Los Angeles a local alternative to PERB oversight. (GC §3541 *et seq*. and 3509)

This bill:

1) Amends the Meyers-Milias-Brown Act, which regulates collective bargaining between local public agencies and public employee unions, to require a public agency to present the status of vacancies and recruitment and retention efforts during a public hearing before its governing board at least once per fiscal year.

2) Requires the agency to make the presentation prior to the adoption of its final budget if the agency's governing board will be adopting an annual or multiyear budget during the fiscal year.

3) Requires the agency to identify during the hearing any necessary changes to policies, procedures, and recruitment activities that may lead to obstacles in the hiring process.

4) Entitles a bargaining unit's recognized employee organization to make a presentation at the public hearing at which the public agency presents the status of vacancies and recruitment and retention efforts for positions within that bargaining unit.

5) Defines for purposes of the bill's provisions, "recognized employee organization" to mean either of the following:

    a) Any organization that includes employees of a public agency and that has as one of its primary purposes representing those employees in their relations with that public agency.
    b) Any organization that seeks to represent employees of a public agency in their relations with that public agency.

6) Requires the public agency, if the number of job vacancies within a single bargaining unit meets or exceeds 20 percent of the total number of authorized full-time positions, and upon request of the recognized employee organization, to include all of the following information during the public hearing:

    a) The total number of job vacancies within the bargaining unit.
    b) The total number of applicants for vacant positions within the bargaining unit.
    c) The average number of days to complete the hiring process from when the employer posts a position.
    d) Opportunities to improve compensation and other working conditions.

7) Clarifies that the bill does not prevent the governing board from holding additional public hearings about vacancies.

8) Makes the bill's provisions severable so that if a court or appropriate hearing officer holds that any provision or its application is invalid, the invalidity shall not affect other provisions or applications that the court or officer can give effect without the invalid provision or application.

9) Finds and declares that these provisions further the purposes of CA Const Art I, Sec. 3 (b) (7), relating to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies and, as such, it is in the public interest to ensure that information concerning public agency employment is available to the public.

10) Provides that no reimbursement shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. However, the bill recognizes that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other law.

Related/Prior Legislation

AB 2557 (Ortega, 2024) would have changed existing law relating to contracts by local governments for certain services by requiring such contracts to include specific standards and requirements, among other provisions. The Senate Appropriations Committee held the bill under submission.

AB 2489 (Ward, 2024) would have changed existing law relating to contracts by local governments (i.e., counties, cities, local public agencies, and municipal corporations) for certain services by requiring such contracts to include specific standards and requirements, among other provisions. The Assembly Appropriations Committee held this bill under submission.

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

According to the Senate Appropriations Committee on the bill's version before the Senate Floor Amendments of 8/23/2024:

- The Public Employment Relations Board (PERB) indicates that it would incur annual General Fund costs of up to $142,000 to implement the provisions of the bill.

- This bill, at a minimum, would result in administrative costs to the California Department of Human Resources (CalHR) of $540,000 initially, and $180,000 on an ongoing basis (General Fund, see Staff Comments).
- By making specified changes to hiring practices at the local level, this bill creates a state-mandated local program. To the extent the Commission on State Mandates determines that the provisions of this bill create a new program or impose a higher level of service on local agencies, local agencies could claim reimbursement of those costs. The magnitude is unknown, but potentially in excess of $50,000 annually (General Fund).

SUPPORT: (Verified 8/25/24)

American Federation of State, County, and Municipal Employees (Co-Source)
California Federation of Labor Unions (Co-Source)
Service Employees International Union - California (Co-Source)
California Association of Psychiatric Technicians
California Professional Firefighters
California School Employees Association
Coalition of California Welfare Rights Organizations
County Employees Management Association
Orange County Employees Association
Peace Officers Research Association of California
SMART - Transportation Division

OPPOSITION: (Verified 8/25/24)

Association of California Healthcare Districts
California Air Pollution Control Officers Association
California Association of County Treasurers & Tax Collectors
California Association of Public Hospitals & Health Systems
California Association of Recreation & Park Districts
California Contract Cities Association
California Municipal Utilities Association
California Special Districts Association
California State Association of Counties
California State Sheriffs' Association
California Transit Association
Chief Probation Officers of California
City of Bakersfield
City of Beaumont
City of Buena Park

City of Carlsbad
City of Chino Hills
City of Colton
City of Corona
City of Cotati
City of Cypress
City of Fontana
City of Fullerton
City of Hermosa Beach
City of Hesperia
City of Kerman, CA
City of La Habra
City of La Palma
City of La Verne
City of Lafayette
City of Lakeport
City of Lomita
City of Los Alamitos
City of Martinez
City of Montclair
City of Napa
City of Newport Beach
City of Norwalk
City of Oceanside
City of Placentia
City of Rancho Cucamonga
City of Redlands
City of San Luis Obispo
City of San Marcos
City of Santa Barbara
City of Santa Ana
City of Sunnyvale
City of Torrance
County Behavioral Health Directors Association
County Health Executives Association of California
County of Alpine
County of Alameda
County of Butte
County of Colusa
County of Contra Costa

County of Del Norte
County of Fresno
County of Humboldt
County of Kern
County of Kings
County of Lassen
County of Merced
County of Mendocino
County of Orange
County of Sacramento
County of San Bernardino
County of San Joaquin
County of San Luis Obispo
County of Shasta
County of Solano
County of Tuolumne
County of Ventura
County Welfare Directors Association of California
Eastern Municipal Water District
El Dorado Irrigation District
League of California Cities
Mesa Water District
Public Risk Innovation, Solutions, and Management
Rural County Representatives of California
Marin County Council of Mayors & Council Members
South Coast Air Quality Management District
Town of Truckee
Urban Counties of California

ARGUMENTS IN SUPPORT: According to the American Federation of State, County, and Municipal Employees, one of the sponsors of the measure:

"California's local governments are facing a vacancy crisis impacting these workers, the services they provide, and the economy, with a recent study from the UC Berkeley Labor Center finding that vacancy rates are as high as 30% in several counties. Due to high vacancies, many public sector workers face increased workloads and mandatory overtime, leading to burnout and high turnover. These conditions exacerbate the vacancy crisis and impact the quality of public service delivery for communities in need. Further, the problem compounds due to understaffing-related stress and the disruption of workers' personal lives by

pushing more public service workers into the private sector as they seek other jobs with more predictable hours, manageable workloads, and competitive pay. This staffing crisis is not caused by a shortage of willing and able workers, our members believe that it is driven by a combination of factors, including unsustainable working conditions and compensation rates."

ARGUMENTS IN OPPOSITION: A coalition of opposition from local public employers, including the California State Association of Counties and League of California Cities, writes: "the issue of vacancies is particularly acute with the highest rates typically in behavioral health, the sheriff's department, probation departments, human resources departments, and social services. … Local governments have been implementing innovative ways to try to boost recruitment and incentivize retention (e.g., sign-on bonuses, housing stipends, etc.).

"In spite of these efforts, vacancies persist; driven by several distinct circumstances. The public sector workforce has changed. In a post-COVID era, there is a much higher demand for remote work, which is not a benefit that can be offered within public agencies across all departments or for all roles. Furthermore, newer entrants to the workforce have changed priorities when it comes to the benefits and conditions of their work…. Employees have experienced burn-out, harassment from the public, and a seemingly endless series of demands to transform systems of care or service delivery while simultaneously providing consistent and effective services, without adequate state support to meet state law. Obviously, it is difficult to retain staff in those conditions."

"They conclude by stating that, "Local bargaining units have the ability to address workforce concerns or develop hiring/retention strategies/incentives at the bargaining table within agreements and compensation studies. We welcome partnering on workforce strategies and believe there is a more productive and economical pathway than AB 2561."

ASSEMBLY FLOOR: 51-5, 5/22/24
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Wendy Carrillo, Connolly, Mike Fong, Gabriel, Garcia, Gipson, Grayson, Haney, Hart, Jackson, Jones-Sawyer, Kalra, Lee, Low, Lowenthal, Maienschein, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Papan, Quirk-Silva, Ramos, Rendon, Reyes, Rodriguez, Blanca Rubio, Santiago, Schiavo, Soria, Ting, Valencia, Villapudua, Ward, Weber, Wicks, Zbur, Robert Rivas
NOES: Vince Fong, Gallagher, Hoover, Sanchez, Wallis

NO VOTE RECORDED: Calderon, Juan Carrillo, Cervantes, Chen, Megan Dahle, Davies, Dixon, Essayli, Flora, Friedman, Holden, Irwin, Lackey, Mathis, Pacheco, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Luz Rivas, Ta, Waldron, Wilson, Wood

Prepared by: Glenn Miles / L., P.E. & R. / (916) 651-1556, Alma Perez / L., P.E. & R. / (916) 651-1556
8/27/24 19:23:14

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

SENATE RULES COMMITTEE AB 2593
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2593
Author: McCarty (D), Hoover (R) and Stephanie Nguyen (D)
Amended: 6/6/24 in Senate
Vote: 21

SENATE LOCAL GOVERNMENT COMMITTEE: 7-0, 6/5/24
AYES: Durazo, Seyarto, Dahle, Glazer, Skinner, Wahab, Wiener

SENATE HOUSING COMMITTEE: 10-0, 7/2/24
AYES: Skinner, Ochoa Bogh, Blakespear, Caballero, Cortese, Menjivar, Padilla, Seyarto, Umberg, Wahab

ASSEMBLY FLOOR: 73-0, 5/2/24 (Consent) - See last page for vote

SUBJECT: Joint Exercise of Powers Act: Sacramento County Partnership on Homelessness

SOURCE: Author

DIGEST: This bill authorizes a local agency within the County of Sacramento to enter into a joint powers agreement (agreement) with any other local agency too operate a joint powers authority (JPA) to assist the homeless.

ANALYSIS:

Existing law:

1) Authorizes, under the Joint Exercise of Powers Act, two or more public agencies to use their powers in common if they sign a joint powers agreement. Such an agreement may create a new, separate government called a joint powers agency or JPA. Agencies that may exercise joint powers include federal agencies, state departments, counties, cities, special districts, school districts, federally recognized Indian tribes, and even other JPAs.

2) Authorizes public agencies to use the JPA law and the related Marks-Roos Local Bond Pooling Act to form bond pools to finance public works, working capital, insurance needs, and other public benefit projects. Bond pooling saves money on interest rates and finance charges, and allows smaller local agencies to enter the bond market. Because a JPA is an entity separate from its members, bonds issued by JPAs do not have to be approved by voters.

This bill:

1) Authorizes a local agency within the County of Sacramento to enter into a joint powers agreement with any other local agency to operate JPA for the following purposes:

   a) Assist the homeless population.
   b) Coordinate a homelessness response.
   c) Develop and manage a comprehensive strategic plan to address homelessness.

2) Requires the JPA, if formed, to be called the Sacramento County Partnership on Homelessness.

3) Requires the agreement to incorporate the composition and membership requirements of the board of directors, as specified, and applicable components of the Homelessness Services Partnership Agreement adopted by the City of Sacramento and County of Sacramento.

4) Establishes parameters for the membership for the Board of Directors.

5) Requires the Sacramento County Partnership on Homelessness, within five years of the date in which it is established, to adopt a strategic plan to address homelessness within the County of Sacramento and submit the plan to the appropriate policy and fiscal committees of the Legislature.

Background

State law generally limits membership in JPAs to public agencies: federal, state, and local governments. However, legislation has authorized some types of private entities to enter into joint powers agreements with public agencies for specified purposes. For example, state law allows a mutual water company to enter into a joint powers agreement with any public agency for the purpose of jointly exercising any power common to the contracting parties provided that the

agreement ensures that no participating public agency becomes responsible for the underlying debts or liabilities of the joint powers agency (AB 2014, Cortese, Chapter 250, Statutes of 1994). Similarly, state law allows nonprofit hospitals to enter into JPAs to provide health care services in Fresno County (AB 1785, Reyes, Chapter 55, Statutes of 2002); Contra Costa County (AB 3097, Campbell, Chapter 148, Statutes of 1996); Tulare, Kings, and San Diego Counties (SB 850, Kelley, Chapter 432, Statutes of 1997); and Tuolumne County (AB 2717, House, Chapter 227, Statutes of 2000). These hospital JPAs specify that a nonprofit hospital that participates in one these JPAs cannot levy any tax or assessment.

The Legislature enacted SB 1403 (Maienschein, Chapter 188, Statutes of 2015), which, until January 1, 2024, allows one or more private, nonprofit 501(c)(3) corporations that provide services to homeless persons for the prevention of homelessness to form a JPA, or enter into a joint powers agreement with one or more public agencies. The JPA must be a public entity, but cannot have the power to incur debt. JPAs formed under this provision are to encourage and ease information sharing between public agencies and nonprofit corporations to identify the most costly and frequent users of publicly funded emergency services, provide frequent user coordinated care housing services, and prevent homelessness. The participating public agencies must determine the composition of the board of directors, but the representation of nonprofit 501(c)(3) corporations cannot exceed 50% of the board membership.

In recent years, the Legislature has also created five new JPAs for funding the development of housing for homeless and low-income individuals and families in different regions of the state. Following these efforts, SB 20 (Rubio, Chapter 147, Statutes of 2023) generally authorized any two or more local agencies to enter into an agreement to create a regional housing trust to fund housing for people experiencing homelessness and persons and families of extremely low-, very low-, and low-income within their jurisdictions.

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

SUPPORT: (Verified 7/15/24)

Caity Maple - Councilmember, City of Sacramento
Downtown Streets Team
Hope Cooperative (TLCS, Inc.)
Sacramento Regional Coalition to End Homelessness

OPPOSITION: (Verified 7/15/24)

City of Citrus Heights
City of Elk Grove
County of Sacramento

ARGUMENTS IN SUPPORT: According to the author, "Homelessness is an issue that we must tackle together. I appreciate the innovative city-county efforts to tackle homelessness, but we need a more robust local collaboration if we are going to solve this problem. This partnership will help us make a tangible difference in the lives of homeless individuals, and restore the well-being and vitality of Sacramento County communities."

ARGUMENTS IN OPPOSITION: According to the County of Sacramento, "On March 12, 2024, the Sacramento County Board of Supervisors and City Council adopted the Regionally Coordinated Homeless Housing, Assistance and Prevention Plan (HHAP), which gives strategies for heightened regional collaboration. Since the Plan adoption, entities hired a consultant who finalized a report on shared governance models. The report was presented to the County and all cities with a request to participate in an exploratory committee to determine the best governance approach for the region, which we have done. This exploratory committee is interested in heightened collaboration but does not agree that a JPA is the best model for our region at this time. We will continue to work toward a more effective model of collaboration that is cost-effective and fair so that all partners have a voice in strategic development."

ASSEMBLY FLOOR: 73-0, 5/2/24
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Juan Carrillo, Wendy Carrillo, Cervantes, Chen, Connolly, Davies, Dixon, Essayli, Mike Fong, Vince Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, 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, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Wicks, Wilson, Wood, Zbur
NO VOTE RECORDED: Calderon, Megan Dahle, Flora, Low, Mathis, Weber, Robert Rivas

Prepared by: Jonathan Peterson / L. GOV. / (916) 651-4119

7/31/24 15:30:51

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

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THIRD READING

Bill No: AB 2629
Author: Haney (D)
Amended: 8/27/24 in Senate
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 5-0, 6/25/24
AYES: Wahab, Seyarto, Bradford, Skinner, Wiener

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/15/24
AYES: Caballero, Jones, Ashby, Becker, Bradford, Seyarto, Wahab

ASSEMBLY FLOOR: 72-0, 5/23/24 - See last page for vote

SUBJECT: Firearms: prohibited persons

SOURCE: California Department of Justice

DIGEST: This bill, commencing September 1, 2025, prohibits persons found mentally incompetent to stand trial in a postrelease community supervision or parole revocation hearing from possessing or receiving a firearm, as specified.

Senate Floor Amendments of 8/23/24 resolve chaptering conflicts between this bill and both SB 1002 (Blakespear) and SB 1025 (Eggman).

ANALYSIS:

Existing law:

1) Provides that person who has been adjudicated a "mental defective" or committed to a mental institution is prohibited from shipping, transporting, receiving or possessing any firearm or ammunition, a violation of which is punishable by a fine of $250,000 and/or imprisonment of up to ten years. (18 U.S.C. §§ 922(g)(4), 924(a)(2).)

2) Authorizes diversion programs for specified offenses, including diversion specifically for offenders who suffer from mental disorders. (Pen. Code, §§

1000 et seq. for drug abuse; Pen. Code, §§ 1001.12 et seq. for child abuse; Pen. Code, §§ 1001.70 et seq. for contributing to the delinquency of another; Pen. Code, §§ 1001.60 et seq. for writing bad checks, and for specific types of offenders; Pen. Code, §§ 1001.80 et seq. for veterans; Pen. Code, §§ 1001.83 for caregivers; Pen. Code, §§ 1001.35 et seq. for persons with mental disorders).

3) Authorizes a court to, after considering the positions of the defense and prosecution, grant pretrial mental health diversion to defendant charged with a misdemeanor or a felony if the defendant meets specified eligibility and suitability requirements. (Pen. Code, § 1001.36, subds. (a)-(c).)

4) States that a person cannot be tried or adjudged to punishment or have his or her probation, mandatory supervision, postrelease community supervision, or parole revoked while that person is mentally incompetent. (Pen. Code § 1367, subd. (a).)

5) Requires, when counsel has declared a doubt as to the defendant's competence, the court to hold a hearing determine whether the defendant is incompetent to stand trial (IST). (Pen. Code § 1368, subd. (b).)

6) Provides that if the defendant is found mentally competent during a postrealease community supervision or parole revocation hearing, the revocation proceedings shall resume, and the formal hearing on the revocation shall occur within a reasonable time after the resumption of proceedings, but in no event may the defendant be detained in custody for over 180 days from the date of arrest. (Pen. Code § 1370.02, subd. (a).)

7) Provides that if the defendant has been found mentally incompetent in the above proceedings, the court shall dismiss the pending revocation matter and return the defendant to supervision. If the revocation matter is dismissed, the court may also modify the terms and conditions of supervision to include mental health treatment, refer the matter to any local mental health, reentry, or collaborative court, or refer the matter to the public guardian of the county of commitment to initiate conservatorship proceedings. (Pen. Code § 1370.02, subd. (b).)

8) Provides that a person found by a court to be mentally incompetent to stand trial on a felony or has a developmental disability, as specified, shall not purchase or receive, or attempt to purchase or receive, or have possession, custody, or control of any firearm or any other deadly weapon, unless there has been a

finding with respect to the person of restoration to competence by the committing court. (Welf. & Inst. Code §8103, subd. (d).)

This bill provides, commencing September 1, 2025, that a person found by a court to be mentally incompetent to stand trial during a post-release community supervision proceeding or parole revocation hearing, shall not purchase or receive, or attempt to purchase or receive, or have possession, custody, or control of any firearm or any other deadly weapon, unless there has been a finding with respect to the person of restoration to competence to stand trial by the committing court.

Comments

According to the author, "AB 2629 will close a loophole in existing law that allows people who are deemed criminally insane to purchase and buy guns. Compared to other high-income countries, the United States has stood out as the only country with a persistent problem with gun violence. Since 2014, California has had more than 12,000 deaths caused by guns. Preventing tragedies before they happen by prohibiting gun ownership for individuals who are mentally incompetent is a common sense solution that will improve public safety."

Existing California law prohibits certain persons from owning or possessing firearms, ammunition, other deadly weapons and related devices, including, among other categories, persons subject to a domestic violence restraining order or gun violence restraining order, persons convicted of a felony and certain misdemeanors, and other categories of persons found to be a danger to themselves or others, including specified individuals found to be suffering from mental illness. California Welfare and Institutions Code § 8103 contains several mental illness-related firearms prohibitions for individuals that fall within different categories, most of which are lifetime bans on the ownership, possession or purchase of firearms.

Individuals subject to this lifetime ban include persons found by a court of any state to be a danger to others as a result of mental illness, persons adjudicated to be mentally disordered sex offenders, persons found not guilty by reason of insanity, persons found mentally incompetent to stand trial, and any person who is placed under a 5150 hold two or more times within one year. Non-lifetime prohibitions include persons receiving in-patient treatment at a mental health facility for a mental disorder and is a danger to self or others (until discharge), any person placed under a conservatorship because they are gravely disabled from a mental disorder or chronic alcoholism and are a danger to self or others (for the period of the conservatorship), any person who communicates a serious threat of physical violence to a psychotherapist against a reasonably identifiable victim (5 years), any

person taken into custody and admitted to a mental health facility under a 5150 hold (5 years).

Central to this bill is the lifetime ban on the purchase or possession of firearms or other deadly weapons for individuals who are found IST, which may be lifted if there is a subsequent finding by the committing court that the person has been restored to competence. Existing law requires the court to notify the DOJ of a finding of either competence or incompetence no later than one court day after issuing the order. Critically, this lifetime ban only applies to individuals who are charged with a felony, alleged to have violated the terms of felony probation or mandatory supervision, or are incompetent as a result of a mental health disorder, developmental disability, or both a mental health disorder and developmental disability. This bill, commencing September 1, 2025, extends the firearm and deadly weapon prohibition for IST individuals to also apply to individuals who are found IST a post-release community supervision or parole revocation hearing.

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

According to the Senate Appropriations Committee:

- Costs (General Fund) to the Department of Justice (DOJ), possibly in the low hundreds of thousands of dollars annually, to add this bill's firearm prohibition to the Armed and Prohibited Persons System (APPS). Costs will likely decrease after APPS is updated but DOJ may incur ongoing workload costs to identify people subject to this prohibition and enforce it.

- Costs (Trial Court Trust Fund, General Fund) of an unknown amount to adjudicate violations of the firearms prohibition added by this bill. A defendant charged with a misdemeanor or felony is entitled to no-cost legal representation and a jury trial. Actual court costs will depend on the number of violations, prosecutorial discretion, and the amount of court time needed to adjudicate each case. Additional workload pressures will also arise from individuals who petition to have their firearms rights restored, as authorized by this bill. While the courts are not funded on a workload basis, an increase in workload could result in delayed court services and would put pressure on the General Fund to fund additional staff and resources and to increase the amount appropriated to backfill for trial court operations. The Budget Act of 2024, for the fiscal year beginning July 1, 2024, includes a $97 million reduction to the trial courts, a commensurate reduction of up to 7.95 percent to the budget for the state-level judiciary, and a reduction of the trial court state-level emergency reserve in the

Trial Court Trust Fund from $10 million to $5 million. The Budget Act also includes a $37.3 million General Fund backfill for the Trial Court Trust Fund to address the continued decline in civil fee and criminal fine and penalty revenues expected in fiscal year 2024–25.

SUPPORT: (Verified 8/23/24)

California Department of Justice (Source)
City of Alameda
City of Santa Monica
Los Angeles City Attorney

OPPOSITION: (Verified 8/23/24)

ACLU California Action

ASSEMBLY FLOOR: 72-0, 5/23/24
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Chen, Connolly, Davies, Dixon, Flora, Mike Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, 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, Rodriguez, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas
NO VOTE RECORDED: Cervantes, Megan Dahle, Essayli, Vince Fong, Holden, Mathis, Luz Rivas, Blanca Rubio

Prepared by: Alex Barnett / PUB. S. /
8/28/24 23:31:48

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

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THIRD READING

Bill No: AB 2716
Author: Bryan (D), et al.
Amended: 8/23/24 in Senate
Vote: 21

SENATE NATURAL RES. & WATER COMMITTEE: 6-4, 6/25/24
AYES: Min, Allen, Laird, Limón, Padilla, Stern
NOES: Seyarto, Dahle, Grove, Hurtado
NO VOTE RECORDED: Eggman

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/15/24
AYES: Caballero, Ashby, Becker, Bradford, Wahab
NOES: Jones, Seyarto

ASSEMBLY FLOOR: 46-15, 5/21/24 - See last page for vote

SUBJECT: Oil and gas: low-production wells: Baldwin Hills Conservancy: Equitable Community Repair and Reinvestment Account

SOURCE: Consumer Watchdog

DIGEST: This bill prohibits the operation of low-production oil and gas wells located in an oil field within the Baldwin Hills Conservancy, requires the Geologic Energy Management Division to identify these wells, imposes a $10,000 per month penalty upon these wells if certain criteria are not met, and provides for penalty revenue to fund projects, such as park creation, to benefit the nearby community, as provided, among other provisions.

Senate Floor Amendments of 8/23/24 clarify the definition of low-production well to exclude any idle wells that might otherwise qualify; clarify that more than one penalty cannot be assessed on a low-production or other well in violation of the terms of the bill for a given time period; provide that the penalty monies be a special fund administered by the Department of Conservation to Los Angeles County and clarify that the county may contract with certain entities to use

allocated monies from the account for projects, as specified; update the findings; and make various conforming and minor technical changes

ANALYSIS:

Existing law:

1) Provides that the purposes of the state's oil and gas conservation laws include protecting public health and safety and environmental quality, including the reduction and mitigation of greenhouse gas emissions associated with the development of hydrocarbon and geothermal resources in a manner that meets the energy needs of the state. Requires the State Oil and Gas Supervisor (supervisor), the leader of the Geologic Energy Management Division in the Department of Conservation (CalGEM), to coordinate with other state agencies and others to further the goals of the California Global Warming Solutions Act of 2006 and to help support the state's clean energy goals. (Public Resources Code (PRC) §3011)

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

3) Classifies oil and gas wells based upon their use.

    a) An idle well is a well that is not in use, and has not been in use for at least 24 consecutive months, as specified. (PRC §3008)

    b) An idle well that has no operator or other responsible party to pay for its costs becomes an "idle-deserted" or "orphan" well, which is then the responsibility of the state to plug and abandon. (PRC §§3251, 3206.3)

    c) Long-term idle wells are those wells that have been idle for at least 8 years. (PRC §3008)

4) Requires an operator of any completed well to file a written notice of intention with the supervisor or district deputy, as provided, before commencing the work to plug the well or any operation to permanently alter the casing of the well. (PRC §3203)

5) Provides that a well is properly abandoned when it has been shown, to the satisfaction of the supervisor, that all proper steps have been taken to isolate all

oil-bearing or gas-bearing strata, among other provisions, including decommissioning attendant production facilities, as provided. (PRC §3208)

6) Requires CalGEM to require each operator of an oil or gas well to submit a report to the supervisor that demonstrates the operator's total liability to plug and abandon all wells and to decommission all attendant production facilities, including any needed site remediation. Requires CalGEM to develop criteria to be used by operators for estimating costs to plug and abandon wells and decommission attendant production facilities, including site remediation.

This bill prohibits the operation of low-production oil and gas wells located in an oil field within the Baldwin Hills Conservancy, requires CalGEM to identify these wells, imposes a $10,000 per month penalty upon these wells if certain criteria are not met, and provides for penalty revenue to fund projects, such as park creation, to benefit the nearby community, as provided, among other provisions. Specifically, this bill:

1) Defines a "low-production well" to be a non-idle oil or gas well that produces, on average, fewer than 15 barrels of oil a day during the past 12 consecutive months, or a natural gas well whose maximum daily average gas production does not exceed 60,000 cubic feet of gas, per day, during the past 12 consecutive months, as provided.

2) Requires CalGEM, on or before March 1, 2025, to identify all low-production wells located within an oil field located in whole or in part in the Baldwin Hills Conservancy in Los Angeles County, and to determine the length of time those low-production wells have continuously been low-production wells, as provided.

3) Requires CalGEM, on or before March 1, 2026, to notify owners of the low-production wells identified per 2) of the prohibition on operating a low-production well for more than 12 months, as provided.

4) Prohibits, starting March 1, 2026, a well identified per 2) from being a low-production well for more than 12 months.

5) Requires the supervisor to charge an administrative penalty of $10,000 per month to a low-production well owner in violation of 4) until the well is plugged and abandoned, as specified. Postpones the requirement for site remediation until oil and gas operations cease.

6) Requires CalGEM to waive the penalty in 5) on a low-production well when the owner submits a request for a NOI to plug and abandon the well. Requires CalGEM to resume assessing the penalty on the well owner if work to plug and abandon the well does not start before the NOI expires. Restricts the ability of the owner to apply for another NOI to plug and abandon the well during a two year period, with certain exceptions.

7) Requires all wells in an oil field located in whole or in part in the Baldwin Hills Conservancy to be plugged and abandoned by December 31, 2030. Requires the owner of an idle well or long-term idle well in the same field to comply with CalGEM's idle well management requirements in order to accomplish the plugging and abandonment of those wells by the deadline, as provided.

8) On or after January 1, 2031, requires the supervisor to charge an administrative penalty of $10,000 per month to a well owner who is not in compliance with 7) until the well is plugged and abandoned. Prohibits the supervisor from charging this penalty if a penalty pursuant to 5) has already been assessed for the same well for the same time period, as provided.

9) Requires all funds collected to be deposited in the Equitable Community Repair and Reinvestment Account (account) which is created in the State Treasury.

   a) Prohibits the Legislature allowing the account balance to exceed $20M.

   b) Until December 31, 2030, prohibits the Legislature from allowing the account balance to exceed $10M after 50% of the wells identified in 2) have been plugged and abandoned. After January 1, 2031, prohibits the Legislature from allowing the account balance to exceed $10M after 50% of all of the wells in the oil field in whole or in part in the Baldwin Hills Conservancy are plugged and abandoned.

10) Requires funds in the account to be available, upon appropriation, to the Department of Conservation for allocation to Los Angeles County. Requires funds to be used by the county for certain projects, such as park creation, and affordable housing, among others, to the extent these projects benefit communities living within 2-1/2 miles of the oil wells identified in 2). Authorizes the county to contract with certain entities within its jurisdiction for these projects.

11) Makes relevant findings and declarations and provides that no reimbursement is required for the state mandate.

Background

California is a major oil and gas producing state. According to the U.S. Energy Information Administration, the state was 7th and 15th for oil and marketed natural gas production, respectively, among the 50 states. Oil exploration and production in California started in the 19th century. Production of oil was about 123 million barrels in 2023, and continues to decline from the 1985 peak. Many of the state's oil and gas fields have been in operation for decades, if not longer.

According to the Assembly Natural Resources Committee, CalGEM data also show that approximately 80% of the state's active wells are what are colloquially known as "stripper wells" – wells whose maximum daily average production during any 12-month consecutive time period does not exceed 15 barrels of oil per day, or 90,000 cubic feet of natural gas per day.

While low-production wells can be reworked or injection wells added to the field or reworked to help boost oil and gas production, the expense of these efforts would be weighed against potential revenue from future production. As noted previously, many of the state's oil and gas fields have been producing oil and gas for decades. Many of the state's active oil and gas wells may be nearing the end of their economic productivity, particularly in view of the state's goals to achieve carbon neutrality by 2045 that includes phasing out fossil fuels and requiring all new cars to be zero-emission by 2035.

Comments

Bill's scope narrowed to the Inglewood Oil Field. Author amendments taken in the Senate Appropriations Committee narrow the scope of the bill to the Inglewood Oil Field and reduce the penalty per low-production well substantially (from $10,000 per day to $10,000 per month), among other provisions.

[Additional information and discussion may be found in the Senate Natural Resources and Water Committee's bill analysis.]

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

According to the Senate Appropriations Committee to a previous version:

Unknown, potentially significant ongoing costs (Oil, Gas, and Geothermal Administrative [OGGA] Fund) for Department of Conservation (DOC) to identify all low-production wells, as specified, determine the amount of time each of those

wells have been continuously low-production, and enforce the provisions of this bill as related to those wells.

SUPPORT: (Verified 8/15/24)

Consumer Watchdog (source)
1000 Grandmothers for Future Generations
350 Bay Area Action
350 Conejo/San Fernando Balley
350 Humboldt
350 Sacramento
350 South Bay Los Angeles
350 Ventura County Climate Hub
Breast Cancer Action
California Climate Voters
California Community Foundation
California Environmental Voters
California Nurses for Environmental Health and Justice
Center for Biological Diversity
Center for Community Action and Environmental Justice
Central California Environmental Justice Network
Central Coast Environmental Voters
Citizens' Climate Lobby, Santa Cruz Chapter
City of Los Angeles
CleanEarth4Kids.org
Climate Action California
Climate First: Replacing Oil & Gas (CFROG)
Climate Hawks Vote
Climate Health Now
Communities for a Better Environment
Consumers for Auto Reliability and Safety
Culver City Democratic Club
Elders Climate Action, Northern California Chapter
Elders Climate Action, Southern California Chapter
Elected Officials to Protect America – Code Blue
Environmental Working Group
Extinction Rebellion, San Francisco Bay Area
Food & Water Watch
Fossil Free California
FracTracker Alliance
Friends of the Earth
Glendale Environmental Coalition
Greenpeace USA
Indivisible CA Green Team
Indivisible Marin
Manhattan Beach Huddle
Natural Resources Defense Council
Oil and Gas Action Network
Physicians for Social Responsibility, Sacramento
Physicians for Social Responsibility, San Francisco
Presente.org
Resource Renewal Institute
RootsAction.org
San Francisco Baykeeper
San Francisco Climate Emergency Coalition
San Joaquin Valley Democratic Club
SanDiego350
Santa Barbara Standing Rock Coalition
Santa Cruz Climate Action Network
Santa Monica Democratic Club

Sierra Club California
SoCal 350 Climate Action
Solano County Democratic Central Committee
Stand.earth
Sunflower Alliance
Sustainable Mill Valley
The Climate Center
The Climate Reality Project, Bay Area Chapter
The Climate Reality Project, California Coalition
The Climate Reality Project, Los Angeles Chapter
The Climate Reality Project, San Fernando Valley Chapter
Transformative Wealth Management, LLC
Vote Solar
West LA Democratic Club

OPPOSITION: (Verified 8/15/24)

California Department of Finance
California Independent Petroleum Association
County of Kern
County of Madera
Sentinel Peak Resources
Valley Industry and Commerce Association
Western States Petroleum Association

ARGUMENTS IN SUPPORT: According to the author, "The egregious environmental impacts of low-producing oil wells is no different from that of their high-producing counterparts. These wells extract a heavy toll from our communities, stripping them from their health and well-being without even extracting a meaningful amount of oil. In California alone, millions of people and whole communities reside within 3,200 feet of an oil well - 70% of them are communities of Color. This bill seeks to hold oil drillers accountable for continuing to operate low producing wells at the expense of communities."

The Natural Resources Defense Council, writing in support, adds that those who live near low-producing wells "suffer higher rates of respiratory illness, prenatal defects, and cancer. AB 2716 seeks to mitigate these health risks by addressing wells in these zones that produce fewer than 15 barrels of oil per day. These wells, also known as "stripper wells," are at the end of their economically useful life. Oil drillers continue to run these wells with low output in order to avoid paying the cost of plugging them, causing unnecessary health risks."

"AB 2716 will incentivize oil companies to shut down low producing wells to protect our most vulnerable communities."

ARGUMENTS IN OPPOSITION: Sentinel Peak Resources argues that "AB 2716 will add unnecessary costs and burdens to Sentinel Peak's [Inglewood Oil Field] operations that will jeopardize Sentinel Peak's entire development plan."

They note that they are "at the beginning stages of a sweeping plan to transition the [Inglewood Oil Field] from oil extraction and to remediate and redevelop approximately 300 acres for housing amenities. Our proposal addresses two critical goals of Governor Newsom and the California Legislature: the advancement of California's energy transition goals and the construction of affordable and market rate housing. Our project will turn the existing oil field into a vibrant new neighborhood in one of the most sought-after communities in the region. The process will take many years to permit and billions of dollars to achieve."

"By singling out [Inglewood Oil Field] operations and excluding all other similar operations in the state, the amendments not only violate the equal protection clause of the United States Constitution, among other legal protections afforded to Sentinel Peak and other owners of the [Inglewood Oil Field], but also provisions of the California Constitution banning bills of attainder and special legislation."

They argue for tolling any penalties for wells that are not plugged and abandoned by 2030 as it is unlikely all well plugging and abandonment and site remediation will not be completed until 2040 in accordance with the development plan.

ASSEMBLY FLOOR: 46-15, 5/21/24
AYES: Addis, Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Wendy Carrillo, Connolly, Mike Fong, Garcia, Grayson, Haney, Hart, Irwin, Jackson, Jones-Sawyer, Kalra, Lee, Low, Lowenthal, Maienschein, McCarty, McKinnor, Muratsuchi, Ortega, Papan, Pellerin, Petrie-Norris, Quirk-Silva, Rendon, Reyes, Santiago, Schiavo, Ting, Valencia, Ward, Weber, Wicks, Wood, Zbur, Robert Rivas
NOES: Bains, Chen, Davies, Essayli, Flora, Vince Fong, Gallagher, Hoover, Lackey, Jim Patterson, Joe Patterson, Sanchez, Ta, Waldron, Wallis
NO VOTE RECORDED: Alanis, Juan Carrillo, Cervantes, Megan Dahle, Dixon, Friedman, Gabriel, Gipson, Holden, Mathis, Stephanie Nguyen, Pacheco, Ramos, Luz Rivas, Rodriguez, Blanca Rubio, Soria, Villapudua, Wilson

Prepared by: Katharine Moore / N.R. & W. / (916) 651-4116
8/26/24 17:01:24

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

SENATE RULES COMMITTEE AB 2729
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THIRD READING

Bill No: AB 2729
Author: Joe Patterson (R), et al.
Amended: 8/21/24 in Senate
Vote: 21

SENATE LOCAL GOVERNMENT COMMITTEE: 7-0, 6/26/24
AYES: Durazo, Seyarto, Dahle, Glazer, Skinner, Wahab, Wiener

SENATE HOUSING COMMITTEE: 9-0, 7/2/24
AYES: Skinner, Ochoa Bogh, Blakespear, Caballero, Cortese, Padilla, Seyarto, Umberg, Wahab
NO VOTE RECORDED: Menjivar

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 49-2, 5/20/24 - See last page for vote

SUBJECT: Development projects: permits and other entitlements

SOURCE: Author

DIGEST: This bill extends residential development entitlements by 18 months.

Senate Floor Amendments of 8/21/24 clarify that subdivision maps are a type of entitlement subject to the 18-month entitlement extension, and remove impact fee collection provisions of the bill.

ANALYSIS:

Existing law:

1) Allows local governments to require applicants for development projects to pay fees to mitigate the project's effects, known as mitigation or development impact fees.

2) Requires, under the Mitigation Fee Act, local officials that are establishing, increasing, or imposing a fee as a condition of approving a development project to:

3) Requires local agencies to deposit mitigation fees to fund a capital improvement associated with a development in a separate account or fund.

4) Requires local agencies that impose mitigation fees to produce an annual report within 180 days of the end of the fiscal year that includes specified information.

5) Requires a city, county, or special district that has an internet website to post and update on their websites specified information, including a current schedule of housing development project costs, zoning ordinances and development standards, annual impact fee reports, and an archive of specified impact fee nexus studies.

6) Requires local agencies to conduct and adopt a nexus study prior to the adoption of an impact fee, and specified standards and practices.

7) Provides that cities and counties cannot collect impact fees before they conduct the final inspection or issue a certificate of occupancy, whichever occurs first. However, utilities can collect impact fees at the time the utility receives an application for service, which can happen before a final inspection.

This bill:

1) Extends by 18 months the time frame for any housing entitlement for a residential development project that was issued to and was in effect on January 1, 2024, and will expire prior to December 31, 2025.

2) Provides that if a state or local agency extends a housing entitlement between January 1, 2024 and the effective date of this bill, that housing entitlement shall not be extended for an additional 18 months.

3) Defines “housing entitlement” as:

   a) A legislative, adjudicative, administrative, or any other kind of approval, permit, or other entitlement necessary for, or pertaining to, a housing development project issued by a state agency.

   b) An approval, permit, or other entitlement issued by a local agency for a housing development project that is subject to the Permit Streamlining Act.

c) A ministerial approval, permit, or entitlement by a local agency required as a prerequisite to issuance of a building permit for a housing development project.

d) A requirement to submit an application for a building permit within a specified period after the effective date of a housing entitlement.

e) A tentative map, vesting tentative map, or parcel map for which a tentative map or vesting tentative map, as the case may be, has been approved.

f) A vested right associated with an approval, permit, or other entitlement.

4) Provides that a "housing entitlement" does not include:

a) Development agreements.

b) Approved or conditionally approved subdivision map acts that have already been extended. (SB 9, Atkins, Chapter 162, Statutes of 2021)

c) Preliminary applications under the Housing Crisis Act of 2019. (SB 330, Skinner, Chapter 654, Statutes of 2019)

5) Provides that the 18-month extension in this bill shall be tolled during any period that the housing entitlement is the subject of a legal challenge.

6) Provides that nothing in this bill shall preclude a local government from providing an extension in addition to the 18 months specified in this bill.

Background

In general, constructing a housing development project requires local government approval at multiple stages; this approval process is often referred to as the entitlement process. An approval is generally considered an entitlement when it locks in the regulatory standards that a local government or state agency can apply to a project. Entitlements are powerful documents as they provide certainty to developers, which can help them secure financing for a project. However, entitlements also constrain the ability of local governments and state agencies to adjust for new conditions. Additionally, when an issued entitlement is outstanding, it alters the ability of the local government or state agency to approve other

projects that could potentially be impacted by the pending project. Therefore, various entitlements are subject to expiration, although many may be extended at the discretion of the local government or state agency.

Comments

1) *Purpose of the bill.* According to the author, "California is facing a serious housing affordability crisis that is exacerbated by extremely high impact fees that increase the cost of housing for nearly every California resident. While these fees may be necessary for local jurisdictions, requiring developers to pay the fees before a home is even built increases financing costs and decreases the availability of capital to complete projects. Assembly Bill 2729 does not impact the ability of local jurisdictions to collect the fees. Rather, it simply requires payment of impact fees when the home is actually going to be occupied. This small change reduces the financial burden, improves cash-flow, and increases the likeliness that projects will be completed. We took significant amendments in the Assembly to ensure that fees supporting infrastructure that is already built, or will be built in the near future, can be collected up front. We've also protected local governments by allowing them to collect fees to support staff time connected to the project. AB 2729 is a measured approach to make sure collected fees are not unnecessarily sitting in a bank account with no immediate plans to spend them."

2) *Home rule.* California's 483 cities and 58 counties all take different approaches to housing development, and adopt local policies that reflect their constituents' perspectives. While some cities and counties are less than pro-active, others have taken numerous steps to make housing development feasible. This bill uniformly requires them to extend housing development entitlements. This applies statewide, increasing costs for good and bad actors alike. Should the Legislature adopt a one-size-fits all approach rather than leave decisions regarding entitlement extensions at the local level?

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

SUPPORT: (Verified 8/30/24)

Bay Area Council
California Building Industry Association
California Chamber of Commerce
California Community Builders
California Housing Consortium

California YIMBY
Circulate San Diego
Fieldstead and Company, Inc.
Habitat for Humanity California
Housing Action Coalition
Monterey Bay Economic Partnership
SPUR
YIMBY Action

OPPOSITION: (Verified 8/30/24)

California State Association of Counties
City of Belmont
City of Beverly Hills
City of Camarillo
City of Carlsbad
City of Concord
City of Oakley
City of Rolling Hills Estates
City of Thousand Oaks
Kern County Superintendent of Schools Office
League of California Cities
Livable California
Mesa Water District
Mission Street Neighbors

ASSEMBLY FLOOR: 49-2, 5/20/24
AYES: Alanis, Alvarez, Berman, Boerner, Calderon, Juan Carrillo, Wendy Carrillo, Chen, Davies, Dixon, Essayli, Flora, Mike Fong, Vince Fong, Friedman, Gallagher, Garcia, Grayson, Haney, Hoover, Lackey, Lee, Low, Lowenthal, Maienschein, McCarty, Ortega, Pacheco, Papan, Jim Patterson, Joe Patterson, Petrie-Norris, Quirk-Silva, Reyes, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Ta, Ting, Villapudua, Waldron, Wallis, Ward, Wicks, Wood, Zbur, Robert Rivas
NOES: Bauer-Kahan, Muratsuchi
NO VOTE RECORDED: Addis, Aguiar-Curry, Arambula, Bains, Bennett, Bonta, Bryan, Cervantes, Connolly, Megan Dahle, Gabriel, Gipson, Hart, Holden, Irwin, Jackson, Jones-Sawyer, Kalra, Mathis, McKinnor, Stephanie Nguyen, Pellerin, Ramos, Rendon, Luz Rivas, Soria, Valencia, Weber, Wilson

Prepared by: Jonathan Peterson / L. GOV. / (916) 651-4119
8/30/24 11:32:14

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

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THIRD READING

Bill No: AB 2745
Author: Mathis (R), et al.
Amended: 8/13/24 in Senate
Vote: 21

SENATE AGRICULTURE COMMITTEE: 5-0, 6/18/24
AYES: Hurtado, Grove, Alvarado-Gil, Cortese, Padilla

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 70-0, 5/21/24 - See last page for vote

SUBJECT: Agricultural pests: public nuisance: civil penalty

SOURCE: Author

DIGEST: This bill authorizes a county agricultural commissioner to levy a civil penalty against a person that is found to maintain land deemed to be a public nuisance. This bill requires the person charged with maintaining land deemed to be a public nuisance to receive notice of the nature of the violation and be given the opportunity to rectify the violation within 15 days of receiving notice. If the person that maintains land deemed to be a public nuisance rectifies the situation, they will not be required to pay the civil penalty. This bill states the civil penalty can be increased after 30 days of inaction, and establishes the person's right to appeal the levy within 10 days of receiving notification of the penalty. Finally, this bill sunsets these provisions on January 1, 2035.

Senate Floor Amendments of 8/14/24 strike out section (f) of the bill which lists agricultural practices on agricultural property that shall not constitute a violation of Food and Ag Code 5402.

ANALYSIS:

Existing law:

1) States any premises, plants, conveyances, or things that are infected or infested with a pest are a public nuisance and may be abated pursuant to a specified procedure. (Food and Agricultural Code Section 5401)

2) Makes it unlawful for any person to maintain that public nuisance. (Food and Agricultural Code Section 5402)

3) Authorizes each county agricultural commissioner as an enforcing officer of all laws and regulations relating to the prevention of the introduction into, or the spread within, the state of pests. (Food and Agricultural Code Section 2276.5)

4) Defines "pest" to mean specified things that are, or are liable to be, dangerous or detrimental to the agricultural industry of the state. (Food and Agricultural Code Section 5006)

5) Authorizes the secretary of a county agricultural commissioner, in lieu of specified civil actions, and except as specified, to levy a civil penalty against a person violating specified provisions relating to plant quarantine and pest control, not to exceed $2,500 for each violation. (Food and Agricultural Code Section 5311)

This bill:

1) Requires the person charged with the violation to receive notice of the nature of the violation and be given an opportunity to rectify the violation within 15 days of receiving notice.

    a) The notice shall include the internet website of the University of California Statewide Integrated Pest Management Program.

    b) Upon service of the notice, the commissioner shall refer the person charged with the violation to the nearest University of California Cooperative Extension service office.

2) Provides that, if the person charged with the violation cannot, after a reasonable search, be found within the county, the notice shall be served by posting copies of it in three conspicuous places upon the property or premises or by mailing a copy of it to the owner of the property or premises at their last known address.

3) Provides that the notice shall include, either within the notice or in a separate document that accompanies the notice, a statement that reads: "This is a notice of a violation of Section 5402 of the California Food and Agricultural Code, relating to maintaining a public nuisance. This notice of a violation has been issued by your county's agricultural commissioner. For more information or assistance, please contact their office. Do not ignore this notice."

   a) The statement shall be in both English and in any other language of which over 10 percent of the persons residing within the county speak only that other language.

4) States if the person that is liable takes a good faith action to rectify the situation within 15 days of receiving notice, they will not have to pay the civil penalty.

5) States if the person that is liable does not take a good faith action to rectify the situation within 30 days of issuance of the original civil penalty, the amount of the civil penalty can be increased to $1,000 per acre of property found to be in violation.

6) Authorizes the person charged with the violation to appeal the levy within 10 days of receiving notification of the penalty to the secretary.

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

SUPPORT: (Verified 8/14/24)

Almond Alliance
County of Fresno

OPPOSITION: (Verified 8/16/24)

301 Organics
Agricultural Institute of Marin
Ban Sup (Single Use Plastic)
Butte County Local Food Network
California Association of Resource Conservation Districts
California Certified Organic Farmers (CCOF)
California Climate & Agriculture Network (CALCAN)
California Nurses for Environmental Health and Justice
Californians for Pesticide Reform
Carbon Cycle Institute
Center for Food Safety
Center on Race, Poverty, & the Environment
Central California Environmental Justice Network
Clean Water Action

Community Alliance With Family Farmers
Community Water Center
Ecology Center
Environmental Working Group
FACTS: Families Advocating for Chemical & Toxics Safety
Farm-to-consumer Legal Defense Fund
Grandparents for Action
NRDC
Pesticide Action Network
Resilient Foodsheds
Roots of Change
Sierra Harvest
Sustainable Agriculture Education (SAGE)
Union of Concerned Scientists
Veggielution
Wild Farm Alliance
World Be Well Organization

ARGUMENTS IN SUPPORT: According to the author:

> AB 2745 is a commonsense bill that will allow County Agricultural Commissioners to carry out their duty more efficiently and effectively while protecting the agriculture and ecosystem that California depends on.

ARGUMENTS IN OPPOSITION: The Community Alliance with Family Farmers wrote in opposition to the recently amended version of this bill stating:

> "While we may agree with the intentions of this bill and the importance of curbing harmful pests, this legislation is too broad and needs much more definition and clarity on what a "nuisance" and "pest" is. If enacted, this legislation would broadly authorize agricultural commissioners to assess civil penalties in ways that could be inappropriate. Many of our farmers grow diversified vegetable and orchard crops, most of which have important habitat for beneficial insects such as hedgerows, plant cover crops for soil health, and have a wide array of crop diversity and planting systems."

ASSEMBLY FLOOR: 70-0, 5/21/24
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Chen, Connolly, Davies, Dixon, Essayli, Flora, Mike Fong, Vince Fong, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Hoover, Irwin, Jackson, Jones-Sawyer, 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, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas

NO VOTE RECORDED: Bennett, Cervantes, Megan Dahle, Friedman, Gabriel, Holden, Kalra, Mathis, Luz Rivas, Ta

Prepared by: Reichel Everhart / AGRI. / (916) 651-1508
8/29/24 16:35:29

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

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THIRD READING

Bill No: AB 2795
Author: Arambula (D), et al.
Amended: 8/28/24 in Senate
Vote: 21

SENATE HUMAN SERVICES COMMITTEE: 5-0, 7/1/24
AYES: Alvarado-Gil, Ochoa Bogh, Blakespear, Limón, Menjivar

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/15/24
AYES: Caballero, Jones, Ashby, Becker, Bradford, Seyarto, Wahab

ASSEMBLY FLOOR: 72-0, 5/22/24 - See last page for vote

SUBJECT: CalWORKs Indian Health Clinic Program

SOURCE: California Rural Indian Health Board, Inc.

DIGEST: This bill requires the California Department of Social Services (CDSS) to make 50 percent of the funding allocated to a California Work Opportunity and Responsibility to Kids (CalWORKs) Indian Health Clinic Program grantee provided as an advance payment if specified conditions are met.

Senate Floor Amendments of 8/28/24 clarify that Indian Health Clinic programs must submit a written request to receive an advance payment and clarifies that the remaining funds will be remit as reimbursement and advance payments are only available if funds have been appropriated through the budget.

ANALYSIS:

Existing law:

1) Authorizes California to have state jurisdiction of Indian affairs, including health services for American Indians are based on a special historical legal responsibility identified in treaties with the U.S. government. (Public Law (P.L.) 83-280 in 1954)

2) Allows reimbursement by Medicare and Medicaid for services provided to American Indians and Alaska Natives in Indian Health Service and tribal health care facilities. It also provides states with a 100 percent federal medical assistance percentage for Medicaid services provided through an Indian Health Service or Tribal health care facility (25 USC 18.)

3) Establishes the federal Temporary Assistance for Needy Families (TANF) program, which provides block grants to states to develop and implement their own state welfare-to-work programs designed to provide cash assistance and other supports and services to low-income families. (42 USC 601 et seq.)

4) 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.)

5) Allows the director of CDSS to provide funding to Indian Health Clinics for CalWORKS authorized services to CalWORKS and tribal TANF recipients. (WIC 10553.15)

6) Requires CDSS to make an annual allocation of funds appropriated for the purpose of this subdivision to all eligible federally recognized American Indian tribes with reservation lands or rancherias located in this state that administer a program pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (WIC 10553.25)

This bill:

1) Establishes the CalWORKs Indian Health Clinic Program to fund Indian Health Clinics that provide services authorized under CalWORKS to CalWORKS and Tribal TANF applicants and recipients.

2) Defines “applicants and recipients” as individuals who self-attest to an Indian Health Clinic that they applied for or receive CalWORKS or tribal TANF benefits. The bill does not require verification of eligibility.

3) Allows Medi- Cal enrollees to receive services at an Indian Health Clinic if they self- attest to enrollment in Medi- Cal.

4) Allows an Indian Health Clinic to request advance payment in an amount equal to but no more than 50 percent of its total allocated funding amount at the beginning of each fiscal year, if the following documents are submitted:

a) A written request for advance payment

b) Timely and accurate submission of data reports required under the agreement, budget expenditure reports, and an annual reconciliation report from the prior year, within 45 days of the beginning of the fiscal year, and CDSS to approval within 90 days.

5) Requires CDSS to remit advance payments only if funds have been appropriated through the budget.

6) Requires CDSS to remit the remainder of the total allocated amount as reimbursement when in receipt of a written request and supporting documents from the Indian health clinic.

Comments

According to the author, "Eligible members of tribal communities should receive equitable access to safety net programs. Indian Health Clinics were created to provide tribal communities with resources to overcome poverty, mental health, and substance abuse. Indian Health Clinics help adults secure and retain employment, provide referrals to mental health and substance abuse treatment programs, assist with legal and law enforcement needs, and provide counseling services focused on suicide prevention, domestic violence, anger, or stress.

Indian Health Clinics participating in the Indian Health Clinic Program can be reimbursed by the CDSS through the CalWORKs and tribal TANF. Each Indian Health Clinics is currently able to draw from $107 thousand allocated per year per clinic. However, significant administrative reporting requirements and significant staff shortages, leave smaller Indian Health Clinics grantees unable to access appropriated funds.

AB 2795 models the Indian Health Clinic Program, administered by DSS, after the similarly named Indian Health Program, administered by the DHCS, which provides direct grant funding to Tribal communities with significantly fewer reporting requirements."

CalWORKs. CalWORKs, is the state version of the federal Temporary Assistance for Needy Families (TANF) and is the state's largest anti-poverty program. It 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.

Before TANF, the federal Aid to Families with Dependent Children Program funded similar anti- poverty programs. Congress ended the program in 1996 and required states to implement certain reforms. When California eliminated the Aid to Families with Dependent Children program and replaced it with the CalWORKS program to align with federal law, the statute required the state to make an annual allocation of state funding to supplement federal funding to tribes administering Tribal TANF.

Eligibility for CalWORKS, is based on family size, income level, and region and families must show economic hardship through income and asset tests. It is also time limited. Adults are only allowed to use CalWORKS for 60 months in their lifetime. Children of adults who receive cash aid can continue to receive benefits until they are 18 in California.

Behavioral Health Disparities within the California American Indian/ Alaska Native population. California American Indian/ Alaska Native populations experience a disproportionate amount of negative health outcomes due to historic marginalization and denial of resources. According to a report by California Department of Public Health, these poor health outcomes are also the result of "the policies leading to their economic and geographic marginalization and to the disruption of cultural and familial systems that form the foundation of healthy [American Indian or Alaska Native] communities."[1] A two-year long project providing prevention and early intervention efforts for various populations, including American Indian/ Alaska Native populations, funded by the Mental Health Services Act and California Reducing Disparities Project, led to a report by the Native American Health Center on mental health challenges of the American Indian/ Alaska Native population. The report says the common approach to mental health diagnosis and treatment put American Indian/ Alaska Native populations at a disadvantage because they are commonly misdiagnosed. This has led to a push for community based, culturally appropriate services. It also highlights the

[1]CA American Indian/Alaska Native Maternal and Infant Health Status Report. June 2019. CDPH. https://www.cdph.ca.gov/Programs/CFH/DMCAH/MIHA/CDPH%20Document%20Library/AIAN-MIH-Status-Report-2019.pdf

importance of treating co- occurring disorders, such as substance abuse in these settings.[2] Another report found that "approximately 15% of American Indian/ Alaska Natives reported lifetime use of stimulants such as cocaine and methamphetamines and…according to the 2018 National Survey on Drug Use and Health, 7.4% of American Indian/ Alaska Native adults age 18–25 used opioids compared to 5.5% of adults in the general population."[3]

CalWORKS Indian Health Clinic Program. According to CDSS, Indian Health Clinics provide "traditional and mainstream mental health and substance abuse treatment and other support services"[4] The goals are similar to all CalWORKS programs to provide services that help adults retain employment or receive education or training that leads to employment.

Services are limited to Native American California residents that are in CalWORKs or Tribal TANF Programs. They are also able to provide culturally sensitive behavioral health treatment and culturally relevant traditional health services. Indian Health Clinics are currently funded through a semi- annual reimbursement process.

There are 36 Indian Health Clinics and each enter into memorandums of understanding (MOUs) with CDSS to provide services and receive reimbursements. Those MOUs were recently renewed for a five year cycle from July 1, 2022, to June 30, 2027. Each Indian Health Clinic is eligible to receive up to $107,900 per fiscal year to provide services, pay their staffs and provide transportation to clients as appropriate. Large Indian Health Clinics are able to complete the forms necessary to receive appropriate reimbursement but for smaller and more rural Indian Health Clinics, it presents an administrative burden and hinders them from receiving the funding they are eligible to receive from the state.

Related/Prior Legislation:

AB 1279 (Assembly Committee on Budget, Chapter 759, Statutes of 2008) allowed CDSS to provide funding to Indian health clinics to provide substance abuse and mental health treatment services, and other related services authorized

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[2] California Reducing Disparities Project: Native American Strategic Planning Workgroup Report." Native American Health Center, Inc. March 30, 2012. https://cpehn.org/assets/uploads/2021/05/Native_CRDP_Vision_Report_Compressed.pdf

[3] Soto, C., West, A., etc all. "Substance and Behavioral Addictions among American Indian and Alaska Native Populations." 19 March 2022. National Library of Medicine.

[4] https://www.cdss.ca.gov/inforesources/tribal-tanf/ihc

under the CalWORKs program to CalWORKs applicants and recipients and Tribal Temporary Assistance for Needy Families (TANF) applicants and recipients living in California.

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

Unknown General Fund costs for the CDSS for state administration.

SUPPORT: (Verified 8/15/24)

California Rural Indian Health Board, INC. (source)

OPPOSITION: (Verified 8/15/24)

None received

ASSEMBLY FLOOR: 72-0, 5/22/24
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Juan Carrillo, Wendy Carrillo, Chen, Connolly, Davies, Dixon, Flora, Mike Fong, Vince Fong, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, 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, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas
NO VOTE RECORDED: Calderon, Cervantes, Megan Dahle, Essayli, Friedman, Holden, Mathis, Luz Rivas

Prepared by: Naima Ford Antal / HUMAN S. / (916) 651-1524
8/29/24 16:35:30

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

SENATE RULES COMMITTEE AB 2803
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 2803
Author: Valencia (D), et al.
Amended: 8/22/24 in Senate
Vote: 27

SENATE ELECTIONS & C.A. COMMITTEE: 7-0, 7/2/24
AYES: Blakespear, Nguyen, Allen, Menjivar, Newman, Portantino, Umberg

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 71-0, 5/16/24 (Consent) - See last page for vote

SUBJECT: Campaign expenditures: criminal convictions: fees and costs

SOURCE: Author

DIGEST: This bill prohibits a candidate or elected official from using campaign funds to pay or reimburse themselves or anyone else for a fine, penalty, judgment, settlement, or legal expenses related to a felony conviction for fraud or certain public trust crimes.

Senate Floor Amendments of 8/22/24 prevent chaptering out issues with SB 1170 (Menjivar, 2024) should both bills be signed into law.

ANALYSIS:

Existing law:

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

2) Makes violations of the PRA subject to administrative, civil, and criminal penalties.

3) Provides all contributions deposited into a campaign committee account are deemed to be held in trust for expenses associated with the election of the candidate or for expenses associated with holding office.

   All spending from the account must be reasonably related to a political, legislative, or governmental purpose. Any spending that confers a substantial personal benefit on anyone authorized to approve the spending of campaign funds must also be directly related to a political, legislative, or governmental purpose.

4) Provides generally that attorney's fees and other costs related to administrative, civil, or criminal litigation may only be paid with campaign funds if the litigation is directly related to the committee's, elected official's or candidate's official activities, duties, or status.

5) Authorizes state and local candidates and elected officials to establish a separate legal defense account to defray attorney's fees and other related legal costs incurred if they are subject to actions related to their status as a candidate or an elected official.

6) Prohibits campaign funds from being used to pay a fine, penalty, judgment, or settlement relating to campaign spending that was found to be improper because it resulted in a personal benefit to the candidate or elected official that was not reasonably or directly related to a political, legislative, or governmental purpose.

7) Prohibits campaign funds from being used to pay or reimburse a candidate or elected official for a penalty, judgment, or settlement related to a claim of sexual assault, sexual abuse, or sexual harassment. If a candidate or elected official violates this prohibition, they are required to reimburse the campaign for all funds used in connection with those legal costs and expenses.

8) Requires an officeholder who is convicted of a felony involving bribery, embezzlement, extortion, perjury or extortion to use their campaign funds solely to pay outstanding campaign debts, the elected officer's expenses, or to return the funds to contributors. Six months after a conviction becomes final, an office holder must forfeit all remaining campaign funds and those funds are deposited into the state's General Fund. This provision does not apply to funds held by a ballot measure committee or in a legal defense fund.

9) Prohibits a person from being considered a candidate for, or from being elected to, any state or local elective office if they have been convicted of certain felony crimes.

This bill:

1) Prohibits campaign funds from being used to pay or reimburse a candidate or elected official for a fine, penalty, judgment, or settlement relating to a conviction involving bribery, embezzlement, extortion, theft, perjury, conspiracy, or any felony involving fraud.

2) Prohibits campaign funds from being used to reimburse expenses for attorney's fees and other costs in connection with the conviction of a candidate or elected official involving bribery, embezzlement, extortion, theft, perjury, conspiracy or any felony involving fraud.

3) Includes language to prevent chaptering out issues with SB 1170 (Menjivar, 2024) should both bills be signed into law.

Background

Authorized Use of Campaign Funds. The PRA imposes restrictions on whether and how campaign funds can be used by candidates and elected officials for "personal use," requiring all campaign spending to be reasonably related to a political, legislative, or governmental purpose. The restrictions are designed to prevent candidates, elected officials, and others who control campaign spending from privately benefiting from their campaign activities.

The PRA also generally provides campaign funds can be used to pay attorney's fees and other costs related to administrative, civil, or criminal litigation if the litigation stems directly from a candidate's or elected officer's activities, duties, or status as a candidate or elected official. Separately, state and local candidates and elective officials can establish a legal defense account to defray attorney's fees and other related legal costs incurred if they are subject to civil, criminal, or administrative proceedings arising directly out of the conduct of an election campaign, the electoral process, or the performance of their governmental activities and duties. However, campaign funds may not be used to pay any fines, penalties, judgments, or settlements relating to an improper use of campaign funds.

Recent Examples of Convictions. As evidence of the need for this bill, the author points to incidents that have occurred in the past several years:

- Last year, former Anaheim Mayor Harry Sidhu pled guilty to federal felony charges of obstructing a federal corruption investigation by destroying evidence and for making false statement to FBI agents. Media articles reported Mr. Sidhu used $300,000 of his campaign funds to pay his legal defense expenses.
- In 2016, former State Senator Ron Calderon was sentenced to three-and-a-half years in federal prison after pleading guilty to federal corruption charges and admitting to accepting tens of thousands of dollars in bribes in exchange for performing official acts as a legislator. Media articles reported Mr. Calderon used $35,000 in campaign funds to pay his legal expenses.
- In 2016, former State Senator Leland Yee was sentenced to five years in prison on racketeering conspiracy charges. Media articles reported Mr. Yee spent $128,000 in campaign funds to pay his legal expenses.

Comments

1) *According to the Author:* "AB 2803 safeguards donor integrity by explicitly prohibiting candidates and elected officials from utilizing campaign funds for convicted felonies involving public crimes or fraud. The purpose of campaign funds is to support candidates and cover reasonable expenses, including election-related litigations. However, convicted felonies represent significant breaches of the public's trust and must be deemed inappropriate for funding through the use of campaign funds. AB 2803 highlights the importance of holding candidates and elected officials accountable for any crimes committed throughout their candidacy or while serving in public office. This will ensure campaign funds are used for their intended purpose, thereby building public trust and greater accountability."

2) *To Narrow, Too Broad, or Just Right?* This bill stems from the corruption cases noted above and prohibits a candidate or elected official from using campaign funds to pay or reimburse themselves or someone else for a fine, penalty, judgment, settlement – or any attorney's fees – related to a conviction involving bribery, embezzlement, extortion, theft, perjury, or conspiracy.

   This bill goes beyond those felonies and extends the prohibition on using campaign funds to pay a fine, penalty, judgment, settlement – or any attorney's fees – related to any felony conviction involving fraud. As a result, a candidate or elected official charged with, for example, insurance fraud, real estate fraud, financial fraud, or mail fraud would not be able to use campaign funds to pay any penalties or attorney's fees related to the case.

It's not clear why this bill is restricted to the types of felonies noted above and does not simply apply to all other felony convictions.

This bill does not alter the current law provisions allowing a candidate or elected official to use their campaign funds to pay for legal expenses to defend themselves against charges related to their activities, duties, or status as a candidate or elected official. However, candidates and elected officials are still not permitted to use those funds to pay any fines, penalties, judgements, or settlements associated with those charges.

Related/Prior Legislation

SB 71 (Leyva, Chapter 564, Statutes of 2019) required a candidate or elected official to reimburse any campaign funds or legal defense funds for legal expenses related to sexual assault, sexual abuse, or sexual harassment conviction. The bill also prohibits using campaign funds or legal defense funds to pay penalties or settlements related to sexual assault, sexual abuse, or sexual harassment claims against a candidate or elected official.

SB 1107 (Allen, Chapter 837, Statutes of 2016) limited the use of campaign funds that are held by public officials who have been convicted of various public trust crimes, among other provisions.

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

SUPPORT: (Verified 8/22/24)

California District Attorneys Association
Chispa
City of Orange
City of Santa Ana
Consumer Watchdog
Orange County Communities Organized for Responsible Development
The Kennedy Commission

OPPOSITION: (Verified 8/22/24)

None received

ASSEMBLY FLOOR: 71-0, 5/16/24
AYES: Aguiar-Curry, Alanis, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Chen,

Connolly, Davies, Dixon, Essayli, Mike Fong, Friedman, Gabriel, Gallagher, Garcia, Grayson, Haney, Hart, Holden, Hoover, 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, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas

NO VOTE RECORDED: Addis, Alvarez, Cervantes, Megan Dahle, Flora, Vince Fong, Gipson, Irwin, Mathis

Prepared by: Evan Goldberg / E. & C.A. / (916) 651-4106
8/23/24 21:36:32

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

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THIRD READING

Bill No: AB 2851
Author: Bonta (D)
Amended: 8/27/24 in Senate
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 5-0, 7/3/24
AYES: Allen, Gonzalez, Hurtado, Menjivar, Skinner
NO VOTE RECORDED: Dahle, Nguyen

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/15/24
AYES: Caballero, Ashby, Becker, Bradford, Wahab
NOES: Jones, Seyarto

ASSEMBLY FLOOR: 57-13, 5/23/24 - See last page for vote

SUBJECT: Metal shredding facilities: fence-line air quality monitoring

SOURCE: Author

DIGEST: This bill requires, on or before January 1, 2027, an air district the jurisdiction of which includes metal shredding facilities to develop requirements for facilitywide fence-line air quality monitoring at metal shredding facilities, as provided. This bill requires the Department of Toxic Substances Control (DTSC) to require metal shredding facilities to monitor and report to the department hazardous waste constituents requested by the department.

Senate Floor Amendments of 8/27/24 reinstate fee exemption language for metal shredding facilities in existing law and make other clarifying and technical changes.

Existing law:

1) Requires DTSC to enforce the standards within the Hazardous Waste Control Law (HWCL) and the regulations adopted by DTSC pursuant to the HWCL. (Health and Safety Code (HSC) § 25180)

2) Authorizes DTSC to deny, suspend, or revoke any permit, registration, or certificate applied for, or issued pursuant to, the HWCL. (HSC § 25186)

3) Authorizes DTSC, in consultation with the Department of Resources Recycling and Recovery, the State Water Resources Control Board, and affected local air quality management districts, to adopt regulations establishing management standards for metal shredding facilities for hazardous waste management activities within DTSC's jurisdiction as an alternative to the requirements specified in the HWCL. (The authority to adopt regulations for alternative management standards expired on January 1, 2018). (HSC § 25150.82 (c))

This bill:

1) Requires, instead of authorizes, DTSC to collect an annual fee from all metal shredding facilities that are subject to the requirements of the hazardous waste control laws, and would require the department to set the fee schedule at a rate sufficient to additionally reimburse OEHHA for its costs to implement these provisions, as provided.

2) Stipulates that DTSC require metal shredding facilities conduct the following:
   a) Monitor hazardous waste constituents requested by the department.
   b) Report on the results of the required monitoring to DTSC.

3) Requires DTSC to collect and analyze light fibrous material at the fenceline of metal shredding facilities to determine the potential for release of hazardous waste.

4) Requires, on or before January 1, 2027, local air pollution control and air quality management districts with metal shredding facilities in their districts, in consultation with the department and OEHHA, to develop requirements for facility-wide fence-line air quality monitoring at metal shredding facilities. Stipulates the requirements include, but not be limited to:
   a) Development of threshold levels for airborne contaminants, including, but not limited to, lead, zinc, cadmium, and nickel, at the fencelines of metal shredding facilities that are protective of air quality and public health.
   b) Development of threshold levels for community notification of potential adverse impact on public health, as provided.
   c) Development of actions to be taken by metal shredding facilities if threshold levels developed pursuant to paragraph (i) are exceeded, and a method of enforcing those actions.

d) Development of community notification procedures to inform the public if the monitoring required pursuant to this subdivision indicates exceedance of the established threshold levels.
e) Reporting on the results of the monitoring required pursuant to this subdivision to the local air district or local air quality management district and the local public health department.

5) Requires, on or before January 1, 2027, local air pollution control and air quality management districts with metal shredding facilities in their districts to adopt regulations to implement, interpret, or make specific the requirements of this measure.

6) Requires all metal shredding facilities implement the facilitywide fence-line hazardous waste constituent monitoring requirements developed pursuant to this measure.

7) Requires the local air pollution control and air quality management districts to oversee and enforce the implementation of the actions required of metal shredding facilities developed in regulations.

8) Requires DTSC to oversee and enforce the implementation of actions required of metal shredding facilities for monitoring of hazardous waste.

9) On or before January 1, 2027, requires DTSC to develop a community notification procedure if monitoring indicates any release of light fibrous material and develop regulations to implement, interpret, or make specific DTSC's responsibilities under the bill.

10) Specifies that any regulatory costs incurred by the air districts in implementing this bill may be reimbursed pursuant to its fee authority.

Background

1) *Metal shredder facilities*. California law defines a "metal shredding facility" as an operation that uses a shredding technique to process end-of-life vehicles, appliances, and other forms of scrap metal to facilitate the separation and sorting of ferrous metals, nonferrous metals, and other recyclable materials from non-recyclable materials. A "metal shredding facility" does not include a feeder yard, a metal crusher, or a metal baler, if that facility does not otherwise conduct metal shredding operations. As such, most scrap metal recycling

facilities would not be subject to any proposed regulations meant to manage the waste generated from metal shredding facilities.

2) *Metal shredder waste*. The shredding of scrap metal (e.g., end-of-life vehicles) results in a mixture of recyclable materials (e.g., ferrous metals and nonferrous metals) and non-recyclable material (i.e., metal shredder waste). Aggregate is generated after the initial separation of ferrous metals and consists of nonferrous metals that can be further recovered and metal shredder waste. Metal shredder waste consists mainly of glass, fiber, rubber, automobile fluids, dirt, and plastics in automobiles and household appliances that remain after the recyclable metals have been removed. Because scrap metal contains regulated hazardous constituents, it can contaminate and ultimately cause metal shredder waste to exhibit a characteristic of hazardous waste for toxicity. In a 2002 draft report on auto shredder waste, DTSC showed that metal shredder waste often exceeded the soluble threshold limit concentrations (STLCs) for lead, cadmium, and zinc.

3) *Non-hazardous waste classification granted to metal shredding facilities*. Based on the hazardous characteristics of metal shredder waste, in many instances, metal shredding facilities are hazardous waste generators and are thus subject to hazardous waste requirements, including permitting, transportation, and disposal. In the late 1980s, in an effort to relieve metal shredding facilities of these requirements, the Department of Health Services (DHS) (the predecessor of DTSC) determined that the metal treatment fixation technologies were capable of lowering the soluble concentrations of metal shredder waste such that the treated metal shredder waste was rendered insignificant as a hazard to human health and safety, livestock, and wildlife. Seven metal shredding facilities applied for and were granted nonhazardous waste classification letters by DHS and later DTSC if they used the metal treatment fixation technologies. The authority to issue these classifications is found in subdivision (f) of Section 66260.200 of Title 22 of the California Code of Regulations, and these determinations are now known as "f letters." These classifications ultimately allowed treated metal shredder waste to be handled, transported, and disposed of as non-hazardous waste in class III landfills (i.e., solid (nonhazardous) waste landfills).

4) *Legislation to address impacts of metal shredding facilities.* In 2014, Senator Jerry Hill introduced SB 1249 based in part on concerns about metal shredder safety due to recent fires at metal shredding facilities in his district, but also in response to the historic concerns about metal shredding facilities and their

potential impact on the environment. The intent of the bill was that the conditional nonhazardous waste classifications, as documented through the historical "f letters," be revoked and that metal shredding facilities be thoroughly evaluated and regulated to ensure adequate protection of human health and the environment. SB 1249 (Hill, Chapter 756, Statutes of 2014) was signed by the Governor and authorized DTSC to develop alternative management standards (different from a hazardous waste facility permit) if, after a comprehensive evaluation of metal shredding facilities, DTSC determined that alternative management standards were warranted.

5) *DTSC's implementation of SB 1249*. DTSC's implementation of SB 1249 included: conducting a comprehensive evaluation of metal shredding facilities and metal shredder waste; determining if alternative management standards specific to metal shredding facilities could be developed to ensure that the management, treatment, and disposal practices related to metal shredder waste are protective of human health and the environment; preparing an analysis of activities to which the alternative standards will apply and to make available to the public before any regulations are adopted; and, adopting emergency regulations establishing a fee schedule to reimburse DTSC's costs for the evaluation, analysis, and regulatory development for metal shredding facilities.

   As part of this implementation, in January 2015, DTSC developed a three-year work plan to implement SB 1249. The work plan includes development of a treatability study on metal shredder wastes to demonstrate the highest level of treatment that can be achieved with the current technology and an assessment of the potential for treated or untreated metal shredder waste to migrate off-site and impact residents or business occupants in the areas surrounding metal shredding facilities and landfills that accept metal shredder waste.

6) *DTSC adopts regulations covering metal shredding facilities*. On October 26, 2021, DTSC announced regulations had been adopted by the Office of Administrative Law that oversee the operations of metal shredding facilities. According to DTSC, "In response to ongoing concerns about hazardous waste releases from metal shredders, the state Department of Toxic Substances Control (DTSC) is taking new steps to protect human health, the environment and vulnerable communities from impacts associated with metal shredding operations. These impacts include improper hazardous waste storage, soil contamination, and releases of hazardous waste into surrounding communities.

"On Monday, the Office of Administrative Law approved DTSC's emergency regulations, which clarify California's definition of scrap metal. Based on this approval, DTSC requires metal shredders to monitor environmental conditions and provide financial assurance to address environmental concerns. Metal shredding facilities that generate and treat metal shredder aggregate will now need to apply for authorization from DTSC to continue those activities.

"Most scrap metal in California comes from old vehicles, appliances, construction and demolition materials, and manufacturing. Metal shredding facilities process the scrap to separate metals by type and separate out non-metal material. DTSC conducted a comprehensive analysis of California's metal shredding industry, initiated by SB 1249, which identifies repeated examples of hazardous waste violations – often in communities already burdened by multiple sources of pollution. DTSC will replace the emergency regulations with permanent regulations developed through public input and the administrative law process."

SB 1249 authorized, until 2018, DTSC to adopt management standards different from a hazardous waste facilities permit, if DTSC determined it was safe to do so. With that authorization having expired, DTSC adopted emergency regulations to permit metal shredding facilities in order to regulate these facilities.

Comments

Purpose of the bill. According to the author, "Metal Shredding facilities are disproportionately located in our most vulnerable and underserved communities already suffering from a disproportionate amount of pollution exposure, and in turn, can contribute to disparate health impacts. AB 2851 will push forward the state's commitment to advancing environmental justice and equity for those impacted the most by toxic emissions. AB 2851 is the first step in accountability for the metal shredding industry. Fenceline monitoring will give local municipalities an awareness of the ongoing sources of potential pollution and the community notification will benefit all living in the surrounding neighborhoods."

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

According to the Senate Appropriations Committee analysis: DTSC estimates ongoing costs of $1.2 million in fiscal year 2026-27 and $1 million annually thereafter (Hazardous Waste Control Account [HWCA]) and 3 positions to implement provisions of this bill. DTSC notes that should it be granted rulemaking

authority to enact these provisions, costs would be incurred beginning in fiscal year 2025-26 instead of 2026-27.

The Office of Environmental Health Hazard Assessment (OEHHA) estimates ongoing costs of $203,000 annually (HWCA) to develop the health guidance values for airborne contaminants, which air districts would use in developing threshold levels protective of air quality and public health and threshold levels for community notification of potential adverse impact on public health.

To the extent additional annual fees are collected by DTSC as a result of being required by this bill, potential increased revenues of an unknown amount (HWCA). Currently, DTSC is authorized to collect an annual fee from metal shredding facilities subject to the requirements of SB 1249 (Hill, Chapter 756, Statutes of 2014). However, to date, DTSC has not adopted regulations for the metal shredding facility fee, despite the authority existing in statute. This bill would not authorize but require DTSC to collect annual fees.

By imposing new duties on local public health departments, this bill imposes a state-mandated local program. These costs would potentially be reimbursable by the state, subject to a determination by the Commission on State Mandates (General Fund).

SUPPORT: (Verified 8/28/24)

Bay Area Air Quality Management District
California Environmental Voters (formerly Clcv)
Clean Earth 4 Kids
Cleanearth4kids.org
Coalition for Clean Air
Families Advocating for Chemical and Toxics Safety
Nrdc
San Francisco Baykeeper
Sierra Club
Treva Reid- Oakland City Councilmember
West Oakland Neighbors

OPPOSITION: (Verified 8/28/24)

None received

ASSEMBLY FLOOR: 57-13, 5/23/24
AYES: Addis, Aguiar-Curry, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo,

Connolly, Mike Fong, Friedman, Gabriel, Garcia, Gipson, Grayson, Haney, Hart, 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, Rodriguez, Santiago, Ting, Valencia, Villapudua, Waldron, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas

NOES: Alanis, Chen, Davies, Dixon, Flora, Vince Fong, Gallagher, Hoover, Jim Patterson, Joe Patterson, Sanchez, Ta, Wallis

NO VOTE RECORDED: Cervantes, Megan Dahle, Essayli, Holden, Lackey, Mathis, Luz Rivas, Blanca Rubio, Schiavo, Soria

Prepared by: Gabrielle Meindl / E.Q. / (916) 651-4108
8/28/24 20:34:43

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

SENATE RULES COMMITTEE AB 2930
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2930
Author: Bauer-Kahan (D)
Amended: 8/28/24 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 9-2, 7/2/24
AYES: Umberg, Allen, Ashby, Caballero, Durazo, Laird, Roth, Stern, Wahab
NOES: Wilk, Niello

SENATE APPROPRIATIONS COMMITTEE: 4-2, 8/15/24
AYES: Caballero, Ashby, Becker, Wahab
NOES: Jones, Seyarto
NO VOTE RECORDED: Bradford

ASSEMBLY FLOOR: 50-14, 5/21/24 - See last page for vote

SUBJECT: Automated decision systems

SOURCE: Author

DIGEST: This bill regulates the use of "automated decision systems" (ADS) in order to prevent "algorithmic discrimination." This includes requirements on developers and deployers that make and use these tools to make "consequential decisions" to perform impact assessments on ADSs. This bill establishes the right of individuals to know when an ADS is being used, the right to opt out of its use, and an explanation of how it is used.

Senate Floor amendments of 8/28/24 update definition for automated decision system, ensure proper oversight by the Civil Rights Department, and clarify its interaction with other laws.

ANALYSIS:

Existing law:

1) Establishes the Civil Rights Department, and sets forth its statutory functions, duties, and powers. (Gov. Code § 12930.)

2) Establishes the Fair Employment and Housing Act. (Gov. Code § 12900 et seq.)

3) Establishes the Unruh Civil Rights Act. (Civ. Code § 51.)

This bill:

1) Requires a deployer to perform an impact assessment on any ADS before the system is first deployed and annually thereafter. With respect to an ADS that a deployer first used prior to January 1, 2025, the deployer shall perform an impact assessment on that ADS before January 1, 2026, and annually thereafter.

2) Provides, notwithstanding the above, that a deployer is not required to perform an impact assessment on an ADS before using it if specified conditions are met.

3) Requires a deployer to ensure that the above impact assessment includes all of the following:

    a) A statement of the purpose of the ADS and its intended benefits, uses, and deployment contexts.

    b) A description of specified features of the ADS, including the personal characteristics or attributes that the ADS will measure or assess, the method for doing so, and how they are relevant to the consequential decisions for which the ADS will be used, as well as information on its outputs.

    c) A summary of the categories of information collected from natural persons and processed by the ADS when it is used to make, or be a substantial factor in making, a consequential decision, including categories of sensitive information and information related to a natural person’s receipt of sensitive services.

d) A statement of the extent to which the deployer's use of the ADS is consistent with or varies from the statement required of the developer.

e) An analysis of the risk of algorithmic discrimination, including adverse impacts on the basis of specified protected categories, resulting from the deployer's use of the ADS.

f) A description of the safeguards implemented, or that will be implemented, to address reasonably foreseeable risks of algorithmic discrimination that address specified matters.

g) A description of how the ADS will be used by a natural person, or be monitored when it is used autonomously, to make, or be a substantial factor in making, a consequential decision.

h) A description of how the ADS has been or will be evaluated for validity, reliability, and relevance.

4) Requires a developer to perform an impact assessment on an ADS and annually thereafter, as provided, which must include specified information.

5) Requires a deployer or developer to perform, as soon as feasible, an impact assessment with respect to a substantial modification to an ADS.

6) Requires a deployer, prior to an ADS making a consequential decision, or being a substantial factor in making a consequential decision, to notify any natural person that is subject to the consequential decision that an ADS is being used and to provide specified information.

7) Requires a deployer, if a consequential decision is made solely based on the output of an ADS, to, if technically feasible, accommodate a natural person's request to not be subject to the ADS and to instead be subject to an alternative selection process or accommodation, as specified.

8) Requires a deployer that has deployed an ADS, to make, or be a substantial factor in making, a consequential decision concerning a natural person, to provide that person with specified information about the ADS.

9) Requires the notices and other communications described above to meet specified conditions, including that they be in clear and plain language.

10) Requires a developer to provide a deployer with the results of any impact assessment performed on an ADS, as provided, along with specified documentation.

11) States that the above does not require the disclosure of trade secrets, as defined in Section 3426.1 of the Civil Code.

12) Requires a deployer or developer to establish, document, implement, and maintain a governance program that contains reasonable administrative and technical safeguards, as specified. The program shall provide for annual and comprehensive reviews of policies, practices, and procedures to ensure compliance.

13) Requires a deployer and developer to make publicly available a clear policy that provides a summary of the types of ADSs currently in use or made available to others and how they manage the reasonably foreseeable risks of algorithmic discrimination that may arise from the use of the ADSs.

14) Provides that if an impact assessment performed by a deployer identifies a reasonable risk of algorithmic discrimination, the deployer shall not use the ADS until the risk has been mitigated. If an impact assessment performed by a developer identifies such a risk under deployment conditions reasonably likely to occur in this state, the developer shall not make the ADS available to potential deployers until the risk has been mitigated.

15) Authorizes the Civil Rights Department (CRD) to investigate violations and to request impact assessments from deployers and developers.

16) to bring a civil action against a deployer or developer in violation. Provides that, in such an action, a court may award injunctive and declaratory relief, as well as attorneys' fees and costs. In an action for a violation involving algorithmic discrimination, a civil penalty of $25,000 per violation may also be awarded. Defendants in such cases are provided a 45-day right to cure.

17) Makes it unlawful for a deployer or developer to retaliate against a natural person for that person's exercise of rights provided herein.

18) Provides certain exemptions and clarifies that the rights, remedies, and penalties established therein are cumulative and shall not be construed to supersede the rights, remedies, or penalties established under other laws.

19) Defines the relevant terms, including:

a) "Algorithmic discrimination" means the condition in which an ADS contributes to unlawful discrimination, including differential treatment or impacts disfavoring people based on their actual or perceived race, color, ethnicity, sex, religion, age, national origin, limited English proficiency, disability, veteran status, genetic information, reproductive health, or any other classification protected by state or federal law.

b) "Automated decision system" means, consistent with Section 11546.45.5 of the Government Code, a computational process derived from machine learning, statistical modeling, data analytics, or artificial intelligence that issues simplified output, including a score, classification, or recommendation, that is used to assist or replace human discretionary decisionmaking and that is used to make, or be a substantial factor in making, a consequential decision.

c) "Consequential decision" means a decision or judgment that has a legal, material, or similarly significant effect on an individual's life relating to access to government benefits or services, assignments of penalties by government, or the impact of, access to, or the cost, terms, or availability of employment, as provided.

d) "Deployer" means a person, partnership, developer, corporation, or any contractor or agent of those entities, that uses an ADS to make a consequential decision.

e) "Developer" means a person, partnership, or corporation that designs, codes, or produces an ADS, or substantially modifies an artificial intelligence system or service for the intended purpose of making, or being a substantial factor in making, consequential decisions, whether for its own use or for use by a third party.

f) "Substantial factor" means an element of a decisionmaking process that is capable of altering the outcome of the process.

g) "Substantial modification" means a new version, new release, or other update to an ADS that materially changes its uses, intended uses, or outcomes.

Background

Automated decisionmaking is one particular area where AI is being increasingly deployed. Major transparency and fairness concerns have been raised about the use of ADSs to make consequential decisions, essentially determinations with significant legal or other material effect on one's life. This bill seeks to regulate their use by requiring impact assessments to evaluate their purpose, use of data, potential for bias, and the steps taken to address those risks. The bill also ensures that individuals that are subject to ADSs know when the tool is being used to make a "consequential decision" about them, are able to opt out of their use, and are given a reasonable explanation for the automated decision made and a chance to correct any incorrect data.

This bill is author-sponsored. It is supported by various organizations, including TechEquity Action and Legal Aid at Work. It is opposed by various industry associations, including Google and the American Council of Life Insurers. For a more thorough assessment, please see the Senate Judiciary Committee analysis.

Comments

According to the author:

> AB 2930 protects individuals from algorithmic discrimination by requiring developers and users to assess automated decision tools (ADSs) that make consequential decisions and mitigate any discovered biases. The use of ADS's have become very prominent within different sectors such as housing, employment, and even in criminal justice sentencing and probation decisions. The algorithms used within ADSs can be prone to unrepresentative datasets, faulty classifications, and flawed design, which can lead to biased, discriminatory, or unfair outcomes. These tools can exacerbate the harms they are intended to address and ultimately hurt the people they are supposed to help. As the use of decision making via algorithm becomes more prevalent in our daily lives, it is crucial that we take the necessary steps to ensure that they are used ethically and responsibly.

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

According to the Senate Appropriations Committee: Unknown, potentially significant ongoing costs (General Fund) to the Civil Rights Division (CRD). The number of ADSs that this bill would regulate is unknown, but the number is surely very large and growing. Therefore, an unknown but significant number of

complaints may be filed with the department under this bill, which CRD may prosecute. These prosecutions will involve advanced technologies and complex legal analyses and require highly-skilled investigators and attorneys working with technology and statistical experts. Should this bill be enacted, CRD would likely need a significant number of permanent positions and other resources, depending on the number and complexity of complaints filed with CRD. This would include funding for permanent positions across all of CRD's divisions as well as funding to hire expert consultants.

SUPPORT: (Verified 8/28/24)

American Federation of Musicians, Local 7
California Employment Lawyers Association
Center for Democracy and Technology
Center on Race and Digital Justice Secure Justice
Consumer Reports
East Bay Community Law Center
Economic Security California Action
Equal Rights Advocates
The Greenlining Institute
Legal Aid at Work
Rise Economy
Techequity Collaborative

OPPOSITION: (Verified 8/28/24)

ACLU California Action
Advanced Medical Technology Association
American Council of Life Insurers
American Property Casualty Insurance Association
American Staffing Association
America's Physician Groups
Association of California Life & Health Insurance Companies
CalBroadband
California Association of Health Plans
California Bankers Association
California Communications Association
California Community Banking Network
California Financial Services Association
California Hospital Association
California Life Sciences

California Medical Association
California Mortgage Bankers Association
California Staffing Professionals
Consumer Technology Association
CTIA – The Wireless Association
Electronic Frontier Foundation
Google
Kaiser Permanente
Mortgage Bankers Association
National Association of Mutual Insurance Companies
Orange County Business Council
Pacific Association of Domestic Insurance Companies
Personal Insurance Federation of California
Sutter Health
USTelecom
Verizon Communications

ARGUMENTS IN SUPPORT: A coalition of groups, including Consumer Reports, Equal Rights Advocates, and the Greenlining Institute, write

> AB 2930 would enact common-sense guardrails to help ensure that developers and deployers of these tools are obligated to test and mitigate for discriminatory outcomes prior to the sale or use of these tools in our communities. Specifically, the legislation would:
>
> 1. Require developers and deployers to conduct pre-deployment impact assessments to determine any potential for discrimination on people with protected class status;
> 2. Prohibit the sale or use of an ADS that may create a discriminatory outcome on people within a protected class until that adverse impact has been addressed and resolved;
> 3. Provide consumers with pre-use notice of the tool, a post-use explanation, the right to correct inaccurate information, and access to alternative selection procedures.

ARGUMENTS IN OPPOSITION: The Consumer Technology Association writes:

> AB 2930 would require impact assessments be performed for "any" ADS the deployer uses, regardless of whether the use of the tool presents any significant risks. A risk-based approach to regulating AI

tools is necessary to avoid overbroad regulations and costly new mandates that can, and should, be narrowly focused on only those use cases presenting greatest risks to individuals or society.

ASSEMBLY FLOOR: 50-14, 5/21/24
AYES: Addis, Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Wendy Carrillo, Connolly, Mike Fong, Garcia, Gipson, Grayson, Haney, Hart, Irwin, Jackson, Jones-Sawyer, Kalra, Lee, Low, Lowenthal, Maienschein, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Pellerin, Petrie-Norris, Quirk-Silva, Rendon, Reyes, Santiago, Schiavo, Ting, Villapudua, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas
NOES: Alanis, Chen, Davies, Dixon, Flora, Vince Fong, Gallagher, Hoover, Lackey, Jim Patterson, Joe Patterson, Sanchez, Ta, Waldron
NO VOTE RECORDED: Bains, Juan Carrillo, Cervantes, Megan Dahle, Essayli, Friedman, Gabriel, Holden, Mathis, Ramos, Luz Rivas, Rodriguez, Blanca Rubio, Soria, Valencia, Wallis

Prepared by: Christian Kurpiewski / JUD. / (916) 651-4113
8/29/24 16:35:31

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

SENATE RULES COMMITTEE AB 2986
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 2986
Author: Wendy Carrillo (D)
Amended: 7/3/24 in Senate
Vote: 21

SENATE LOCAL GOVERNMENT COMMITTEE: 5-0, 7/3/24
AYES: Durazo, Glazer, Skinner, Wahab, Wiener
NO VOTE RECORDED: Seyarto, Dahle

SENATE APPROPRIATIONS COMMITTEE: 4-1, 8/15/24
AYES: Caballero, Ashby, Becker, Wahab
NOES: Jones
NO VOTE RECORDED: Bradford, Seyarto

ASSEMBLY FLOOR: 62-0, 5/21/24 - See last page for vote

SUBJECT: County of Los Angeles: East Los Angeles: report

SOURCE: Author

DIGEST: This bill requires the County of Los Angeles (LA County) to complete and submit a report to the Legislature by March 1, 2025 regarding services and investments in each unincorporated community with a population over 10,000, and the feasibility of forming a municipal advisory council, or a coordinating council representing the comprehensive interests of the East Los Angeles Community (East LA), as specified.

ANALYSIS:

Existing law:

1) Establishes a Local Agency Formation Commission (LAFCO) in each county to control the boundaries of cities and special districts.

2) Specifies the process for boundary changes, including through a petition by citizens or an application by a local agency.

This bill:

1) Requires LA County to complete and submit a report to the Legislature by March 1, 2025 on all of the following:

   a) Services and investments for each of the unincorporated communities with a population of over 10,000 in collaboration with all relevant departments and special districts.

   b) For East LA only: the feasibility of forming a municipal advisory council, a local town council, or a coordinating council that could represent comprehensive interests of the entire East LA community, as specified, and all the following information:

      i) Consultant and County costs related to the past two East LA incorporation studies with estimated projected cost in 2024.

      ii) Impacts and diversions to other resources and studies under LA LAFCO's purview.

      iii) Impacts and diversions to other resources, studies, and programs under the County purview.

      iv) Summary of findings from last two incorporation studies.

      v) Summary and breakdown of existing federal, state, and local revenue sources and projection of revenues as an incorporated city, with a comparison of investments in capital projects, programs, and municipal services over the last ten years.

      vi) Analysis and feasibility of East LA fiscal viability as a city or special district.

2) Allows LA County, in lieu of completing a separate report to meet the bill's requirements, to submit any reports that it has produced if they contain substantially similar information.

3) Includes findings and declarations to support its purposes.

Background

The Legislature has the authority to create, dissolve, or otherwise modify the boundaries and services of local governments. Beginning in 1963, the Legislature delegated the ongoing responsibility to control the boundaries of cities, county service areas, and most special districts to LAFCOs in each county. The responsibilities and authority of LAFCOs have been modified in subsequent legislation, including a major revision of the LAFCO statutes in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (AB 2838, Hertzberg). The courts often refer to LAFCOs as the Legislature's watchdog over boundary changes.

Local governments can only exercise their powers and provide services where LAFCO allows them to. LAFCOs' boundary decisions must be consistent with spheres of influence (SOIs) that LAFCOs adopt to show the future boundaries and service areas of the cities and special districts. Before LAFCOs can adopt their SOIs, they must prepare Municipal Service Reviews (MSRs) which analyze population growth, public facilities, and service demands. LAFCOs may also conduct special studies of local governments. Most boundary changes begin when a city or special district applies to a LAFCO, or when registered voters or landowners file petitions with a LAFCO.

City incorporations must follow a specific process in order to be initiated, and the LAFCO must make findings in order to approve a proposal that includes an incorporation. LAFCO law requires a petition for the incorporation of a city to include the signatures of not less than 25 percent of the registered voters or landowners (representing at least 25 percent of the assessed value) residing in the area to be incorporated. Any affected local agency in the area proposed for incorporation may also become the applicant by adopting a Resolution of Application. For any proposal that includes an incorporation, the executive officer of the LAFCO must prepare a comprehensive fiscal analysis. The analysis must review and document each of the following:

a) The costs to the proposed city of providing public services and facilities during the three fiscal years following incorporation, as specified.

b) The revenues of the proposed city during the three fiscal years following incorporation.

c) The effects on the costs and revenues of any affected local agency during the three fiscal years of incorporation.

d) Any other information and analysis needed to make findings, as specified.

East Los Angeles. East LA is an unincorporated area situated within LA County United States Census Bureau data from the 2020 decennial census shows that East LA has a population of 118,786, approximately 96 percent of whom are Hispanic or Latino. According to the LAFCO for Los Angeles County (LA LAFCO), incorporation of East LA has been attempted at least four times since 1961. According to LA LAFCO, in 1961 and 1975, voters rejected incorporation proposals for East LA. An attempt in 1963 did not garner the required number of petition signatures, and LA LAFCO denied a proposal in 2012. The 2012 proposal documented that a new City of East Los Angeles would not be economically viable, as the new city would face a shortfall of $19 million its first year. The author wants the County to review governance options for East LA.

Comments

1) *Purpose of the bill.* According to the Whittier Merchants Association, "AB 2986 requires the County of Los Angeles to report to the Legislature, on or before March 1, 2025, the fiscal viability of East Los Angeles as special district or incorporation, as well as the feasibility of forming a Municipal Advisory Council, a local Town Council, or a Coordinating Council that could represent the comprehensive interests of the entire East Los Angeles community… The businesses and residents in unincorporated East Los Angeles are suffering from lack of representation, we need some form of constituent base representation. This is something our community has never been allowed to have and we have seen the effects of this leadership drought for decades. Please help our community reverse this just like every community around us has. Those who understand and directly impact the issues at hand must make decisions for our community. Outside influences, while well-intentioned, may not fully grasp the complexities of our neighborhood and may not have our community's best interests at heart. We must ensure fair and equitable decision-making by collaborating and representing all voices in our neighborhood. We are asking for your support for AB2986 for the people of East LA."

2) *Is there a problem?* Existing LAFCO law spells out the procedures for incorporation, which requires LAFCO to evaluate a proposal for incorporation if a petition for incorporation is signed by 25 percent of the residents or landowners of the area. However, a LAFCO cannot approve an incorporation if it doesn't find that the city will be fiscally sustainable over the first three years. These requirements exist for good reasons: they ensure that the local community is genuinely supportive of the effort to incorporate, and they

prevent formation of a new local government that immediately goes bankrupt. The East LA community most recently navigated this process in 2012, when a sufficient number of signatures were submitted to require LA LAFCO to consider the petition. As noted previously, when LA LAFCO last looked at it, it found that incorporation would immediately create a deficit. AB 2986 requires LA County to update these numbers to current dollars and study other aspects of potential incorporation by the community. These are steps that mirror recent motions adopted by the LA County Board of Supervisors regarding East LA and other unincorporated areas within the county on April 23, 2024 and May 21, 2024, respectively. Accordingly, the County is already pursuing the information that AB 2986 would provide. It is unclear whether AB 2986 is necessary, or whether it would lead to any substantially different outcomes regarding incorporation.

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

According to the Senate Appropriations Committee, Unknown reimbursable state mandated local costs for LA County to collect data regarding investments in unincorporated communities, and to study the feasibility of forming a municipal, local town, or coordinating council to represent the interests of East LA. Staff notes that local costs to comply with the bill's requirements could be minor, to the extent that LA County has completed reports with substantially similar information prior to this bill's enactment date. See Staff Comments. (General Fund)

SUPPORT: (Verified 8/15/24)

Retired State Senator Martha M. Escutia
California [un]incorporated
East LA Coalition
East Los Angeles Chamber of Commerce
Eastmont Community Center
Los Angeles Lowrider Alliance
Whittier Blvd Merchant Association of East Los Angeles
392 Individuals

OPPOSITION: (Verified 8/15/24)

Association for Los Angeles Deputy Sheriffs
Bienestar Human Services
California Association of Professional Employees
California Professional Firefighters
City of Monterey Park

Clinica Monseñor Oscar A. Romero
County of Los Angeles Board of Supervisors
Dolores Huerta Foundation
East Area Progressive Democrats
East LA Community Corporation
East Los Angeles Boys and Girls Club
El Proyecto Del Barrio, INC.
Fideicomiso Comunitario Tierra Libre
God's Pantry
IBEW Local 11
Jovenes, INC.
LA County Hispanic Managers Association
Labor Council for Latin American Advancement - LA Chapter
Liuna Local 300
Los Angeles County
Los Angeles County - Supervisor Hilda L. Solis
Los Angeles County Asian American Employees Association
Los Angeles County Chicano Employees Association
Los Angeles County Democratic Party
Los Angeles County Firefighters Local 1014
Los Angeles County Probation Officers Union, Afscme Local 685
Los Angeles County Professional Peace Officers Association
Los Angeles LAFCO
Mother of East Los Angeles
Neighborhood Legal Services of Los Angeles County
Nuevo Amanecer Mujer Integral
Operation Healthy Hearts
Our Lady of Victory Church
Plaza De LA Raza, INC.
San Gabriel Valley Conservation and Service Corps
Sandra Mcneill Consulting
Sbcc Thrive LA
Service Employees International Union, Local 721 (seiu Local 721)
Spiritt Family Services
The Wall Las Memorias Project
Unite Here Local 11
1435 Individuals

ASSEMBLY FLOOR: 62-0, 5/21/24

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

Prepared by: Anton Favorini-Csorba / L. GOV. / (916) 651-4119
8/18/24 17:50:25

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

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THIRD READING

Bill No: AB 2996
Author: Alvarez (D)
Amended: 8/23/24 in Senate
Vote: 27 - Urgency

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 12-0, 6/24/24
AYES: Ashby, Nguyen, Alvarado-Gil, Archuleta, Becker, Dodd, Eggman, Glazer, Menjivar, Niello, Smallwood-Cuevas, Wilk
NO VOTE RECORDED: Roth

SENATE INSURANCE COMMITTEE: 7-0, 6/26/24
AYES: Rubio, Niello, Alvarado-Gil, Caballero, Cortese, Dodd, Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/15/24
AYES: Caballero, Jones, Ashby, Becker, Bradford, Seyarto, Wahab

ASSEMBLY FLOOR: 72-0, 5/23/24 - See last page for vote

SUBJECT: California FAIR Plan Association

SOURCE: California Building Industry Association

DIGEST: This bill is an urgency measure that authorizes the California Infrastructure and Economic Development Bank (IBank), upon the request of the California Fair Access to Insurance Requirements Plan Association (FAIR Plan) to issue bonds to finance the costs of claims, to increase liquidity, and claims-paying capacity of the FAIR Plan, and to refund bonds previously issued for that purpose. Requires the FAIR Plan, with the approval of the Insurance Commissioner, to assess all members to pay all loan payments and the costs and expenses relating to a loan agreement with IBank, as well as to assess all members to repay a line of credit and its related costs and expenses.

Senate Floor Amendments of 8/23/24 specify that the FAIR Plan can request IBank bonds if granted prior approval from the Insurance Commissioner and made

conforming changes to the assessments by FAIR Plan on members to pay bonds, loan agreements, or lines of credits with IBank.

ANALYSIS:

Existing law:

1) Establishes the Bergeson-Peace Infrastructure and Economic Development Bank Act and creates the IBank. (GC § 63000 et seq.)

2) Authorizes IBank to make loans, issue bonds, and provide other economic development assistance, among other things. (GC § 63050 et seq.)

3) Establishes the FAIR Plan formed by insurers licensed to write and engaged in writing basic property insurance in California to assist persons in securing basic property insurance and to formulate and administer a program for the equitable apportionment among insurers of basic property insurance. (Insurance Code (IC) § 10091 (a))

4) States that the FAIR Plan was established to assure stability, to assure the availability, to encourage maximum use, and to provide for equitable distribution among admitted insurers of the responsibility for insuring qualified property for which basic property insurance cannot be obtained through the normal insurance market. (IC § 10090)

5) Specifies that rates for the FAIR Plan shall not be excessive, inadequate, or unfairly discriminatory, and shall be actuarially sound so that premiums are adequate to cover expected losses, expenses and taxes, and shall reflect investment income of the plan. (IC § 10100.2)

This bill:

1) Specifies that a financing of the costs of claims or to increase liquidity and claims-paying capacity upon the request of the FAIR Plan are in the public interest and eligible for financing by IBank.

2) Authorizes IBank to issue taxable or tax-exempt bonds to finance the costs of claims or to increase liquidity and the FAIR Plan's claims-paying capacity and to refund bonds previously issued for that purpose. Authorizes IBank to loan the proceeds of bonds to the FAIR Plan and specifies that bond proceeds may also

be used to fund necessary reserves, capitalized interest, credit or liquidity enhancement costs, and costs of issuance.

3) Clarifies that IBank shall not have authority over any matter subject to the approval of the Insurance Commissioner but that IBank has the right to enforce all obligations of the FAIR Plan under the agreements relating to bonds issued.

4) Authorizes the FAIR Plan to:

   a) Request that IBank issue bonds from time to time to finance all or any portion of the costs of claims or to increase liquidity and claims-paying capacity

   b) Enter into loan agreements with IBank.

   c) Enter into line of credit agreements with one or more institutional lenders or one or more broker-dealers for the purpose of financing the costs of claims or to increase liquidity and claims paying capacity and to refund lines of credit previously incurred for that purpose.

   d) Secure those loan agreements or line of credit agreements by a pledge of, and the grant of a lien and security interest in, collateral, including premiums, revenues, and receivables.

   e) Enter into any other agreement or take any other action necessary or convenient to the execution and delivery of loan agreements or line of credit agreements.

5) Requires the FAIR Plan, with the approval of the Insurance Commissioner, to assess all members to repay all loan agreement obligations and all lines of credit.

6) Makes this bill an urgency necessary for the immediate preservation of the public peace, health, or safety because California is now experiencing a severe property insurance availability crisis in the state. This crisis in availability within the property insurance market normally provided by admitted insurers and licensed surplus line brokers is having the result that needed coverage is often unavailable in the normal insurance market, forcing consumers to resort to the “nonadmitted” or “secondary market,” which are insurance alternatives not overseen by the Department of Insurance. Consumers are also having to

purchase much more insurance through the FAIR Plan, and the FAIR Plan has grown to such an extent that its financial capacity to pay claims after a catastrophic fire is unlikely. States that the Legislature finds that access to basic property insurance suitable for protection of all types of habitational risk, including personal and commercial lines of insurance, has become increasingly unavailable and that, as a result, all Californians may suffer because of this unavailability. In order for insurance consumers to obtain adequate policy coverage from the FAIR Plan as soon as possible, it is necessary that the bill take effect immediately.

Background

According to its website, IBank exists within GO-Biz and "was created in 1994 to finance public infrastructure and private development that promote a healthy climate for jobs, contribute to a strong economy and improve the quality of life in California communities. IBank has broad authority to issue tax-exempt and taxable revenue bonds, provide financing to public agencies, provide credit enhancements, acquire or lease facilities, and leverage State and Federal funds. IBank's current programs include the Infrastructure State Revolving Fund (ISRF) Loan Program, California Lending for Energy and Environmental Needs (CLEEN) Center, the Climate Catalyst Revolving Loan fund, Small Business Finance Center and the Bond Financing Program."

FAIR Plan. According to a background report prepared in advance of an Assembly Committee on Insurance oversight hearing of The California Fair Access to Insurance Requirements (FAIR) Plan held in March 2024, the FAIR Plan is an association of all insurance companies licensed by the California Department of Insurance that provides basic property and casualty insurance in California. It was created in 1968, following urban disturbances, notably the Watts Riots in Los Angeles. The purpose of the FAIR Plan is to be the insurer of last resort for basic property insurance in the event of a market failure. At inception, that was urban commercial property. Ultimately, it has expanded to include homeowners' insurance anywhere in the state, provided that the insurance cannot be obtained in the normal manner in the market. At origination, the FAIR Plan was not intended to compete with the admitted market but that point is now debatable.

The FAIR Plan was established to ensure that urban property owners, mostly businesses, would have fair access to the property insurance necessary to continue to operate in a market that insurers viewed as too risky to cover. That risk evaluation resulted in a substantial market withdrawal by insurers from the urban property market. Despite its initial creation as an urban/business insurer of last

resort, the FAIR Plan expanded to provide coverage in designated brush fire regions of the state. It operated fairly well in this manner until the mid1990's, when, as a consequence of the genuine homeowners' insurance crisis that followed the Northridge earthquake in 1994, the entire state was designated as the appropriate FAIR Plan coverage region.

On September 21, 2023, Governor Newsom issued an Executive Order that directed the Insurance Commissioner to "take prompt regulatory action to strengthen and stabilize California's marketplace for homeowners insurance and commercial property insurance, and to consider whether the recent sudden deterioration of the private insurance market presents facts that support emergency regulatory action." It included direction to maintain the solvency of the FAIR Plan to protect its policyholders and promote long-term resiliency in the face of climate change, including identifying mechanisms to reduce its share of the overall market in underserved areas and move its customers into the admitted insurance market.

As noted in the background report, "the FAIR Plan was created as a temporary safety net for policyholders. The goal should continue to be moving FAIR Plan policyholders back into the admitted market, hence the creation of the clearinghouse programs. Fortunately, the Insurance Commissioner's Sustainable Insurance Strategy seeks to tackle the bigger insurance market picture in its entirety. Actions taken that continue to encourage FAIR Plan growth should be considered temporary solutions, if the goal is to return the FAIR Plan back into the 'insurer of last resort.' When the growth of the FAIR Plan begins to stabilize or decrease, that will be the signal that the admitted market is back in business."

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

According to the Senate Committee on Appropriations, this bill will result in unknown, one-time significant costs for IBank to facilitate the bond transaction, which will be recovered from bond sale proceeds. IBank's overall costs of issuance will depend on the size of the bond. The California Department of Insurance does not anticipate a fiscal impact.

SUPPORT: (Verified 8/23/24)

California Building Industry Association (source)
Abundant Housing LA
Apartment Association of Greater Los Angeles
Bay Area Council
Boma California

California Apartment Association
California Association of Community Managers
California Association of Realtors
California Association of Winegrape Growers
California Bankers Association
California Business Properties Association
California Business Roundtable
California Chamber of Commerce
California Farm Bureau Federation
California Mortgage Bankers Association
Community Associations Institute - California Legislative Action Committee
Habitat for Humanity California
Housing Action Coalition
Housing Trust Silicon Valley
Independent Insurance Agents & Brokers of California, INC.
Institute of Real Estate Management (IREM)
Naiop of California, the Commercial Real Estate Development Association
NFIB
Orange County Business Council
Southern California Leadership Council
Spur
The Two Hundred
Yimby Action

OPPOSITION: (Verified 8/15/24)

None received

ARGUMENTS IN SUPPORT: Supporters write that this bill will ensure that the FAIR Plan has additional tools to ensure it is more solvent and resilient if there is a major catastrophic event or multiple smaller events over the next few years until the admitted insurance market can return to normal and competition and consumer choices are once again made available. According to supporters, without this bill, there is no mechanism for insurers to immediately address post-disaster FAIR Plan assessments and their only option to reduce exposure is to non-renew existing policies. (Some insurers have already started non-renewing policies due, in part, to the FAIR Plan exposure.) To ensure financial stability of the FAIR Plan, AB 2996 would authorize the FAIR Plan to request the California Infrastructure and Economic Development Bank to issue bonds and levy special bond payment assessments upon member insurers (not consumers). This will allow for a more gradual repayment process of the IBank loan over a period of time (normally 10

years). Under current law insurers must pay FAIR Plan assessments within 30 days.because the FAIR Plan is growing at an alarming and unsustainable rate, AB 2996 has an urgency clause to ensure that one large fire (like the ones California faced annually from 2017-2021) does not collapse the FAIR Plan and then cascade down to the entire homeowners and commercial insurance market. Supporters note this would have a crushing impact on the entire insurance market and California's insurance consumers.

Supporters note that for the California Building Industry Association, the insurance crisis is putting thousands of new condominium units on hold from being constructed throughout the state of California, until a more affordable and practical commercial insurance market can be created. Condominium homes are the most affordable and attainable first-time home buyer product in California.

According to supporters, California Farm Bureau members work and live in regions of the state often directly impacted by the wildfire risks driving insurers out of the state and driving members into the FAIR Plan. Without belaboring the irony that farms and ranches provide natural mitigation to these very risks, the reality is that the lack of access to affordable, comprehensive insurance will force farms out of production.

According to supporters, independent agents and brokers have been severely harmed by the continuing crisis of availability in property insurance. They are struggling financially, and emotionally, because they can't procure suitable insurance coverage to help their policyholders and neighbors adequately protect their homes and businesses.

ASSEMBLY FLOOR: 72-0, 5/23/24
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Chen, Connolly, Davies, Dixon, Flora, Mike Fong, Vince Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, 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, Rodriguez, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wilson, Wood, Zbur, Robert Rivas
NO VOTE RECORDED: Cervantes, Megan Dahle, Essayli, Holden, Mathis, Luz Rivas, Blanca Rubio, Wicks

Prepared by: Sarah Mason / B., P. & E.D. /
8/25/24 13:35:54

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

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THIRD READING

Bill No: AB 3021
Author: Kalra (D)
Amended: 5/9/24 in Assembly
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-1, 6/18/24
AYES: Wahab, Bradford, Skinner, Wiener
NOES: Seyarto

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/15/24
AYES: Caballero, Ashby, Becker, Bradford, Wahab
NOES: Jones, Seyarto

ASSEMBLY FLOOR: 47-17, 5/20/24 - See last page for vote

SUBJECT: Criminal procedure: interrogations

SOURCE: Californians for Safety and Justice
Silicon Valley De Bug

DIGEST: This bill establishes procedures law enforcement must follow prior to interviewing, questioning, or interrogating the family member of person who has been killed or seriously injured by a peace officer.

ANALYSIS:

Existing law:

1) Requires a state prosecutor to investigate incidents of officer-involved use of force resulting in the death of an unarmed civilian. (Gov. Code § 12525.3 (b)(1).)

2) Requires a state prosecutor to investigate and gather facts in an incident involving a shooting by a peace officer that results in the death of a civilian if the civilian was unarmed or if there is a reasonable dispute as to whether the civilian was armed. (Gov. Code § 12525.3 (b)(2)(A).)

3) Requires law enforcement to furnish written notice to victims of domestic violence at the scene with information on victims' rights and resources. (Penal Code § 13701.)

4) Requires, upon the initial interaction with a sexual assault victim, a law enforcement officer to provide the victim with a card explaining the rights of sexual assault victims, including that they do not need to participate in the criminal justice system. (Penal Code § 680.2 (a).)

5) Requires each department or agency in this state that employs peace officers to make a record of any investigations of misconduct involving a peace officer in the officer's general personnel file or a separate file designated by the department or agency. (Penal Code § 832.12 (a).)

6) Requires every person employed as a peace officer to immediately report all uses of force by the officer to the officer's department or agency. (Penal Code § 832.13.)

7) Provides that, to the extent that such privilege exists under the Constitution of the United States or the State of California, a person has a privilege to refuse to disclose any matter that may tend to incriminate him. (Evidence Code, § 940.)

8) Allows a department or agency that employs peace or custodial officers to release factual information concerning a disciplinary investigation if the officer who is the subject of the disciplinary investigation, or the officer's agent or representative, publicly makes a statement he or she knows to be false concerning the investigation or the imposition of disciplinary action. (Pen. Code, § 832.7 (d).)

This bill:

1) Requires a peace officer, a prosecuting attorney, or an investigator for the prosecution, prior to commencing any interview, questioning, or interrogation, regardless of whether they are in a police station, of an immediate family member of a person who has been killed or seriously injured by a peace officer, to do both of the following:

    a) Clearly identify themselves, including their full name and the agency they work for and whether they represent, or have been retained by, the prosecution. If the interview takes place in person, the person shall also

show the person a business card, official badge, or other form of official identification before commencing the interview or questioning.

b) Clearly state the essence of all of the following to the person being interviewed, questioned, or interrogated:

i) "You have the right to ask about the status of your family member prior to answering any questions, and that information is not conditional on answering any questions."
ii)"You are not being detained. You may leave at any time. You are not required to be taken to the police station. If you are detained at a later time, you will receive a *Miranda* warning."
iii)"You do not have to talk to the police. You have the right to remain silent."
iv)"Anything you say can be used as evidence in civil or criminal court."
v) "You have the right to refuse to be recorded, photographed, or searched."
vi) "Before speaking with law enforcement, the prosecution, or any investigator, you can consult with a trusted support person, civil attorney, or legal advocate, and you can have that person with you while you speak to the police."

2) Defines "immediate family" for the purposes of this bill is the victim's spouse, domestic partner, parent, guardian, grandparent, aunt, uncle, brother, sister, and children or grandchildren who are related by blood, marriage, or adaption.

Background

This bill would require law enforcement to give a Miranda-like warning prior to interviewing, questioning, or interrogating the immediate family member of person who has been killed or seriously injured by a peace officer. According to a recent Los Angeles Times report:

> For years, law enforcement agencies across California have been trained to quickly question family members after a police killing in order to collect information that, among other things, is used to protect the involved officers and their department, an investigation by the Los Angeles Times and the Investigative Reporting Program at UC Berkeley's Graduate School of Journalism has found.

> Police and prosecutors routinely incorporate the information into disparaging accounts about the people who have been killed that help justify the killings, bolster the department's defense against civil suits and reduce the amount of money families receive in settlements and jury verdicts, according to police reports, court records and interviews with families and their attorneys.
>
> The Times and the Investigative Reporting Program documented 20 instances of the practice by 15 law enforcement agencies across the state since 2008. Attorneys specializing in police misconduct lawsuits say those cases are just a fraction of what they describe as a routine practice.
>
> (Howey, After police killings, families are kept in the dark and grilled for information, L.A. Times (Mar. 28, 2023) <After police killings, California families often kept in the dark - Los Angeles Times (latimes.com) [last visited Mar. 26, 2024].)

"Miranda warnings" are a series of admonitions that are typically given by police prior to interrogating a suspect of a crime—they do not apply to, among others, witnesses of crime, the
family members of a criminal defendant, or the family members of a person killed by police. The purpose of Miranda warnings is to advise people that have been arrested of their constitutional right against self-incrimination. They are the product of the landmark Supreme Court decision Miranda v. Arizona (1966) 384 U.S. 436. In deciding that case, the Supreme Court imposed specific, constitutional requirements for the advice an officer must provide prior to engaging in custodial interrogation and held that statements taken without these warnings are inadmissible against the defendant in a criminal case. The Court summarized its decision as follows:

> [T]he prosecution may not use statements, whether exculpatory or inculpatory, stemming from custodial interrogation of the defendant unless it demonstrates the use of procedural safeguards effective to secure the privilege against self-incrimination. By custodial interrogation, we mean questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way. As for the procedural safeguards to be employed, unless other fully effective means are devised to inform accused persons of their right of silence and to assure a continuous opportunity to exercise it, the following measures are required. Prior to any questioning, the person must

> be warned that he has a right to remain silent, that any statement he does make may be used as evidence against him, and that he has a right to the presence of an attorney, either retained or appointed. The defendant may waive effectuation of these rights, provided the waiver is made voluntarily, knowingly and intelligently. If, however, he indicates in any manner and at any stage of the process that he wishes to consult with an attorney before speaking there can be no questioning. Likewise, if the individual is alone and indicates in any manner that he does not wish to be interrogated, the police may not question him. The mere fact that he may have answered some questions or volunteered some statements on his own does not deprive him of the right to refrain from answering any further inquiries until he has consulted with an attorney and thereafter consents to be questioned. (*Id.* at 444-45.)

Generally, "Miranda warnings" are meant to inform people who are in custody of their constitutional right not to be a witness against themselves. Police are not required to speak a specific set of words but generally must convey that the person has the rights enumerated above.

Law enforcement is only required to give Miranda warnings to people "taken into custody or otherwise deprived of [their] freedom of action in any significant way"—i.e. people seized for questioning about a crime.

This bill would require law enforcement to give an admonishment similar to Miranda warnings to the immediate family members of a person killed or seriously injured by law enforcement The author and supporters of this bill believe such a warning is necessary because of the documented use of interrogating family members of individuals harmed by police use of force to obtain information. Specifically, it would require law enforcement to state that the person has a right to ask about their family member prior questioning by law enforcement; that the family member is not detained and may leave at any time; they that do not have to speak to law enforcement; that anything they say could be used in evidence in court; that they the right not to be recorded, photographed, or searched; and that they have the right to consult an attorney or legal advocate, and that that person can be with the family member during questioning.

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

According to Senate Appropriations Committee, Potential cost pressures (local funds, General Fund) for state and local law enforcement officers to provide the required admonitions to family members before interviews. Potential costs include

training costs to law enforcement officers and the cost of employee time to complete the training during work hours. General Fund costs will depend on whether the provisions of this bill impose a reimbursable state mandate, as determined by the Commission on State Mandates.

SUPPORT: (Verified 8/15/24)

Californians for Safety and Justice (co-source)
Silicon Valley De Bug (co-source)
ACLU California Action
California Faculty Association
California Public Defenders Association
Crime Survivors for Safety and Justice
Disability Rights California
Ella Baker Center for Human Rights
Family of Angel Ramos
Family of Caesar Cruz
Family of Christopher Okamoto
Family of Demetrius Stanley
Family of Ernie Serrano
Family of Fermin Vincent Valenzuela
Family of Francisco Villareal
Family of Jacob Dominguez
Family of Jason Alderman
Family of Lorenzo Cruz
Family of Mike E. Nelson, Jr
Family of Rudy Cardenas
Family of Steven Taylor
Family of Trevor Seever
Family of Tyler Scott Rushing
Felony Murder Elimination Project
Fresh Lifelines for Youth
Friends Committee on Legislation of California
Initiate Justice
Initiate Justice Action
LA Defensa
Los Angeles County District Attorney's Office
Oakland Privacy
Pacific Juvenile Defender Center
Smart Justice California, a Project of Tides Advocacy
South Bay Community Land Trust

OPPOSITION: (Verified 8/15/24)

Arcadia Police Officers' Association
Association for Los Angeles Deputy Sheriffs
Burbank Police Officers' Association
California Coalition of School Safety Professionals
California Correctional Supervisors Organization, INC.
California District Attorneys Association
California Narcotic Officers' Association
California Police Chiefs Association
California Reserve Peace Officers Association
California State Sheriffs' Association
Claremont Police Officers Association
Corona Police Officers Association
Culver City Police Officers' Association
Deputy Sheriffs' Association of Monterey County
Fullerton Police Officers' Association
Los Angeles County Professional Peace Officers Association
Los Angeles School Police Management Association
Los Angeles School Police Officers Association
Murrieta Police Officers' Association
Newport Beach Police Association
Novato Police Officers Association
Palos Verdes Police Officers Association
Peace Officers Research Association of California
Placer County Deputy Sheriffs' Assocation
Pomona Police Officers' Association
Riverside Police Officers Association
Riverside Sheriffs' Association
Sacramento County District Attorney's Office
Santa Ana Police Officers Association
Upland Police Officers Association

ARGUMENTS IN SUPPORT: Initiate Justice supports this bill stating:

> In the aftermath of incidents involving police violence, families of the victim are often approached by authorities under the guise of an "interview". Family members are told to go to the precinct, not given information about the state of their loved one, and often lied to about the incident as they are interrogated. While the family member is distressed and worried for their loved one, law enforcement uses this opportunity to coerce information about the victim's past in order to

paint a narrative about the victim or build a case against them. Such tactics not only inflict harm upon the victim and their family, but also erode trust in law enforcement. The relatives of individuals affected by police violence have a reasonable expectation of transparency about the circumstances surrounding their loved one; without being manipulated in the process.

Initiate Justice supports AB 3021 and thanks Assemblymember Kalra for this bill because it will empower families of victims to exercise their rights in interactions with law enforcement when they are at their most vulnerable.

ARGUMENTS IN OPPOSITION: The Los Angeles County Professional Peace Officers Association opposes this bill states:

While protecting the rights of family members is important, imposing rigid requirements on peace officers, prosecuting attorneys, and investigators could ultimately impede the pursuit of justice and compromise the effectiveness of law enforcement efforts. Peace officers and prosecutors are trained to conduct interviews effectively and ethically, and imposing rigid requirements could disrupt established procedures that have proven effective.

Moreover, requiring peace officers and prosecutors to disclose specified information before interviewing family members could compromise the confidentiality of ongoing investigations. This disclosure may inadvertently reveal sensitive details to individuals who are not directly involved in the case, potentially jeopardizing the integrity of the investigation or the safety of those involved.

ASSEMBLY FLOOR: 47-17, 5/20/24
AYES: Addis, Aguiar-Curry, Alvarez, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Juan Carrillo, Wendy Carrillo, Connolly, Mike Fong, Friedman, Garcia, Gipson, Haney, Hart, Holden, Jackson, Jones-Sawyer, Kalra, Lee, Low, Lowenthal, Maienschein, McCarty, McKinnor, Ortega, Papan, Pellerin, Quirk-Silva, Rendon, Reyes, Blanca Rubio, Santiago, Schiavo, Ting, Valencia, Villapudua, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas
NOES: Alanis, Chen, Davies, Dixon, Essayli, Flora, Vince Fong, Gallagher, Hoover, Irwin, Lackey, Jim Patterson, Joe Patterson, Sanchez, Ta, Waldron, Wallis

NO VOTE RECORDED: Arambula, Bains, Calderon, Cervantes, Megan Dahle, Gabriel, Grayson, Mathis, Muratsuchi, Stephanie Nguyen, Pacheco, Petrie-Norris, Ramos, Luz Rivas, Rodriguez, Soria

Prepared by: Mary Kennedy / PUB. S. /
8/18/24 17:50:29

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

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THIRD READING

Bill No: AB 3024
Author: Ward (D), et al.
Amended: 8/28/24 in Senate
Vote: 27 - Urgency

SENATE JUDICIARY COMMITTEE: 8-2, 6/18/24
AYES: Umberg, Allen, Ashby, Caballero, Durazo, Roth, Stern, Wahab
NOES: Wilk, Niello
NO VOTE RECORDED: Laird

ASSEMBLY FLOOR: 61-3, 4/29/24 - See last page for vote

SUBJECT: Civil rights

SOURCE: Anti-Defamation League
Mara W. Elliott, City Attorney for the City of San Diego
Raul A. Campillo, Councilmember, City of San Diego
Todd Gloria, Mayor, City of San Diego

DIGEST: This bill provides that, under the Ralph Civil Rights Act of 1976 (Ralph Act), "intimidation by threat of violence" includes terrorizing the owner or resident of private property with the distribution of materials on that private property, without authorization, with the purpose of terrorizing the owner or occupant of that property; and defines "terrorize" as to cause a person of ordinary emotions and sensibilities to fear for their personal safety.

Senate Floor Amendments of 8/28/24 add an element to the provision clarifying that speech along may not constitute a cause of action under the Ralph Act to ensure that the provision is consistent with existing First Amendment precedent.

ANALYSIS:

Existing law:

1) Provides that Congress shall make no law abridging the freedom of speech, or the right of the people to peaceably assemble, and to petition the government for redress of grievances. (U.S. Constitution First Amendment & 14th Amendment; *see Gitlow v. People of State of New York* (1925) 268 U.S. 652, 666 (First Amendment guarantees apply to the states through the due process clause of the Fourteenth Amendment)

2) Provides that every person may freely speak, write, and publish their sentiments on all subjects, and that a law may not restrain or abridge liberty of speech. (California Constitution Article I § 2)

3) Establishes the Ralph Act, which provides that all persons within the jurisdiction of this state have the right to be free from any violence, or intimidation by threat of violence, committed against their persons or property because of political affiliation, or on account of any characteristic listed in the Unruh Civil Rights Act (set forth below), or position in a labor dispute, or because another person perceives them to have one or more of those characteristics. (Civil (Civ.) Code § 51.7)

    a) The perceived characteristics imported from the Unruh Civil Rights Act are: sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, citizenship, primary language, and immigration status, as defined. (Civ. Code § 51 (a)(e))
    b) The bases of discrimination set forth in the Ralph Civil Rights Act are illustrative rather than restrictive. (Civ. Code § 51.7(b)(1))

4) Provides that, for purposes of the Ralph Act, "intimidation by threat of violence" includes, but is not limited to, making or threatening to make a claim or report to a police officer or law enforcement agency that falsely alleges that another person has engaged in unlawful activity or in an activity that requires law enforcement intervention, knowing that the claim or report is false, or with reckless disregard for the truth or falsity of the claim or report. (Civ. Code § 51.7(b)(2))

5) Provides that the rights in 1) may not be waived, and any attempt to enforce a purported waiver is unenforceable. (Civ. Code § 51.7(c))

6) Provides that whoever denies a right provided in 1), or aids, incites, or conspires in that denial, is liable for each and every offense for the actual damages suffered by any person denied that right and, in addition, the following:

   a) An amount to be determined by a jury, or a court sitting without a jury, for exemplary damage fees.
   b) A civil penalty of $25,000 to be awarded to the person denied the right in any action brought by the person, or by the Attorney General, a district attorney, or a city attorney. An action for the penalty shall be commenced within three years of the alleged practice.
   c) Attorney fees as may be determined by the court. (Civ. Code § 52(b))

7) Establishes the crime of terrorism of a person, which prohibits the display or placement of certain items, signs, and symbols on private and specified property, as follows:

   a) The enumerated prohibited acts are: hanging a noose, with knowledge that it is a symbol representing a threat to life; placing a sign, mark, symbol, emblem, or other physical impression, including, but not limited to, a Nazi swastika; and burning or desecrating a cross or other religious symbol, knowing it to be a religious symbol.
   b) The locations at which the acts are prohibited are: private property, or on the property of a school, college campus, public place, place of worship, cemetery, or place of employment.
   c) The prohibited act must be committed (1) for the purpose of terrorizing the owner or occupant of the private property on which the act is committed, or with reckless disregard of the risk of terrorizing the owner of that private property, or (2) for the purpose of terrorizing a person who attends, works at, or is otherwise associated with the school, college campus, public place, place of worship, cemetery, or place of employment. (Penal (Pen.) Code § 11411(b)-(d))

8) Provides that a person who engages in 5) shall be punished by imprisonment for 16 months or two or three years, by a fine of not more than $10,000, or by both the fine and imprisonment, or in a county jail not to exceed one year, or by a fine not to exceed $5,000, or by both the fine and imprisonment for the first conviction; a second or subsequent conviction increases the maximum fine to $15,000 or $10,000. (Pen. Code § 11411(b)-(e))

9) Defines "terrorize," for purposes of 5), to mean to cause a person of ordinary emotions and sensibilities to fear for personal safety. (Pen. Code § 11411(f))

This bill:

1) Provides that "intimidation by threat of violence," for purposes of the Ralph Act, includes, but is not limited to, terrorizing the owner or resident of private property with the distribution of materials on the private property, without authorization, with the purpose of terrorizing the owner or occupant of that property.

2) Defines "terrorize" as causing a person of ordinary emotions and sensibilities to fear for their personal safety.

3) States that speech alone is not sufficient to support an action brought pursuant to the Ralph Act, except upon a showing that (1) the speech itself threatens violence against a specific person or group of persons; the person or group of persons against whom the threat is directed reasonably fears that, because of the speech, violence will be committed against them or their property; (3) the person threatening violence is acting in reckless disregard for the threatening nature of their speech; and (4) that the person threatening violence has the apparent ability to carry out the threat.

4) Provides that 3) shall not be construed to negate or otherwise abrogate the requirements set forth in the Ralph Act to bring a cause of action.

5) Includes an urgency cause.

Comments

Despite California's strong civil rights protections, hate crimes have increased in California over the past decade. The California Department of Justice's most recent annual hate crimes report shows that the number of reported hate crimes in the state increased by 145.7 percent over the last 10 years, with increases in a number of protected categories, including race, religion, and sexual orientation. The author and proponents of this bill note that a growing type of hate crime involves the placing of hateful flyers, stickers, banners, graffiti, and posters on private property with the goal of making their targets fear for their safety, also known as "hate littering."

According to the author and supporters, hate littering has gained popularity because online hate messaging can be easily blocked or filtered.

This bill is intended to provide a civil remedy for hate littering that rises to the level of a deliberate threat. Specifically, this bill provides that "intimidation by threat of violence" under the Ralph Act includes terrorizing the owner or resident of private property with the distribution of materials on the private property, without authorization, with the purpose of terrorizing the owner or occupant of that property. This bill also defines "terrorizing" as "caus[ing] a person of ordinary emotions and sensibilities to fear for their personal safety." This bill's language is modeled after an existing California statute that criminalizes placing symbols or marks on the property of another, without authorization, with the purpose of terrorizing an owner or occupant of the property. [1] The definition of "terrorize" is identical to the definition in the Penal Code, and the scope of the proscribed conduct—placing materials on the private property of another, without authorization, with the intent of terrorizing the owner or occupant—is broadly the same, except that this bill requires specific intent to terrorize; recklessness is insufficient. [2] This bill also does not apply to the non-private properties listed in the Penal Code section.[3] Additionally, in keeping with the fact that this bill permits an affected party to sue in court for damages, this bill requires that the target have actually been terrorized—in other words, that the target must have actually feared for their personal safety.

Recent floor amendments to the bill reaffirm that the Ralph Act cause of action does not apply to speech unless that speech falls into existing exceptions to the First Amendment. The amendments set, as a baseline, the requirements articulated by the United States Supreme Court in *Counterman v. Colorado* (2023) 600 U.S. 66, which requires the speaker of a "true threat" to have spoken with, at a minimum, reckless disregard for the threatening nature of their speech. As noted above, the cause of action for hate littering requires a higher mental state—the defendant must have acted with the intent to terrorize the owner of the property—but the amendments will ensure that the Ralph Act as a whole remains consistent with the boundaries of the First Amendment.

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

[1] *See* Pen. Code, § 11411.
[2] *See ibid.*
[3] *See ibid.*

SUPPORT: (Verified 8/28/24)

Anti-Defamation League (co-source)
Mara W. Elliott, City Attorney for the City of San Diego (co-source)
Raul A. Campillo, Councilmember, City of San Diego (co-source)
Todd Gloria, Mayor, City of San Diego (co-source)
AJC California
City of La Mesa
CleanEarth4Kids.org
Democrats for Israel – California
Democrats for Israel – Los Angeles
ETTA
Hadassah
HIAS
Holocaust Museum Los Angeles
Jewish Big Brothers Big Sisters of Los Angeles
Jewish Center for Justice
Jewish Community Federation & Endowment Fund
Jewish Community Relations Council of the Bay Area
Jewish Democratic Club of Marin
Jewish Democratic Club of Solano County
Jewish Democratic Coalition of the Bay Area
Jewish Family & Children's Services of San Francisco, the Peninsula, Marin & Sonoma Counties
Jewish Family Service Los Angeles
Jewish Family Service of San Diego
Jewish Family Services of Silicon Valley
Jewish Federation Los Angeles
Jewish Federation of the Greater San Gabriel and Pomona Valleys
Jewish Free Loan Association
Jewish Long Beach
Jewish Silicon Valley
Jewish Family and Children Services Long Beach and Orange County
Jewish Public Affairs Committee of California
Progressive Zionists of California
1 individual

OPPOSITION: (Verified 8/28/24)

ACLU California Action
First Amendment Coalition

ARGUMENTS IN SUPPORT: According to Todd Gloria, the Mayor of the City of San Diego and a co-sponsor of this bill:

> In 2022, Attorney General Rob Bonta released the annual Hate Crime in California Report, which highlighted a 20.2% increase in hate-motivated crime events from 1,763 in 2021 to 2,120 in 2022. One area that has seen a significant rise in the past few years has been the use of hate-motivated propaganda efforts, including hate littering in the form of racist, anti-Semitic and anti-LGBTQ+ flyers, stickers, banners, graffiti and posters. Further, data collected by the Anti-Defamation League's (ADL) Center on Extremism shows a 38% increase in these incidents from the previous year, with 6,751 cases reported in 2022, compared to 4,876 in 2021. This is the highest number of white supremacist propaganda incidents ADL has ever recorded.
>
> As a state, we must recognize that these materials are not just pieces of paper, or expression of free speech. They are direct threats placed on the personal property of targeted community members and their neighbors with the intention to harass, intimidate, and dehumanize them.
>
> AB 3024 will make necessary improvements to existing law by strengthening the Ralph Civil Rights Act of 1976 to ensure victims are provided adequate protections against hate littering and create new legal tools to deter terrorizing activity and hold offenders accountable.

ARGUMENTS IN OPPOSITION: According to ACLU California Action and First Amendment Coalition:

> While we appreciate your laudable goal to address so-called "hateful propaganda," we are concerned with the foreseeable unintended consequences of utilizing significant financial civil penalties to punish people for their speech. We are also concerned with the definitions from the California Penal Code being applied to the California Civil Code.
>
> We understand that the bill's expansion of the meaning of the term "intimidation by threat of violence" is based upon Penal Code Section 11411, and that you believed the language does not violate the First Amendment because a previous version of Section 11411 survived constitutional challenge in In re Steven S., 25 Cal. App. 4th 598, 602

(1994). But that case is distinguishable as In re Steven S. only addressed the cross-burning and religious desecration provisions of the original version subdivision (c). The appellate court's holding is limited to the very specific terrorizing nature of burning a cross on someone else's private property.

Burning a cross on someone else's private property "without authorization for the purpose of terrorizing the owner or occupant of that private property" fits within the "true threat" exception. Because this action sends a fairly unmistakable message of impending violence directed at the property owner. On the other hand, even if the flyers contain language some individuals find extremely hateful, the mere act of placing a flyer on a car windshield or on someone's doorstep typically does not carry the same type of historical symbolism or instill the same fear as burning a cross on an individual's property. The government may only prohibit such flyers if they communicate a true threat. Otherwise, they are protected by the First Amendment.

ASSEMBLY FLOOR: 61-3, 4/29/24
AYES: Addis, Aguiar-Curry, 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, Santiago, Schiavo, Soria, Ting, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas
NOES: Essayli, Vince Fong, Gallagher
NO VOTE RECORDED: Alanis, Alvarez, Chen, Megan Dahle, Davies, Dixon, Flora, Hoover, Lackey, Mathis, Jim Patterson, Joe Patterson, Blanca Rubio, Sanchez, Ta, Valencia

Prepared by: Allison Whitt Meredith / JUD. / (916) 651-4113
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****** END ******

SENATE RULES COMMITTEE AB 3129
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THIRD READING

Bill No: AB 3129
Author: Wood (D), et al.
Amended: 8/28/24 in Senate
Vote: 21

SENATE HEALTH COMMITTEE: 6-2, 6/26/24
AYES: Roth, Gonzalez, Hurtado, Menjivar, Smallwood-Cuevas, Wiener
NOES: Nguyen, Grove
NO VOTE RECORDED: Glazer, Limón, Rubio

SENATE JUDICIARY COMMITTEE: 9-2, 7/2/24
AYES: Umberg, Allen, Ashby, Caballero, Durazo, Laird, Roth, Stern, Wahab
NOES: Wilk, Niello

SENATE APPROPRIATIONS COMMITTEE: 4-2, 8/15/24
AYES: Caballero, Ashby, Becker, Wahab
NOES: Jones, Seyarto
NO VOTE RECORDED: Bradford

ASSEMBLY FLOOR: 50-16, 5/21/24 - See last page for vote

SUBJECT: Health care system consolidation

SOURCE: Attorney General Rob Bonta

DIGEST: This bill requires a private equity group or hedge fund to provide written notice to, and obtain the written consent of, the Attorney General prior to a transaction with a health care facility except hospitals, provider group except dermatology, or, a provider if the private equity group or hedge fund has been involved in a transaction within the last seven years with a health care facility, provider group or provider. This bill prohibits a private equity group or hedge fund involved in any manner with a physician, psychiatric, or dental practice doing business in this state, including as an investor, or as an investor or owner of the assets from interfering with the professional judgment of physicians, psychiatrists,

or dentists in making health care decisions; or, exercising control over, or be delegated the power to do other activities, as specified.

Senate Floor Amendments of 8/28/24 require notice to, and consent of, the Attorney General under this bill only to be required for transactions or agreements with the University of California in which a private equity group or hedge fund is purchasing, acquiring, or taking control, responsibility, or governance of a health care facility, provider group, or provider.

ANALYSIS:

Existing law:

1) Provides the Attorney General (AG) with the discretion to consent to, give conditional consent to, or not consent to any agreement or transaction involving a nonprofit health facility based on the consideration of specified factors, such as fair market value and public interest that the AG deems relevant. [Corporations Code (CORP) §5917, §5923]

2) Establishes the Office of Health Care Affordability (OHCA) in the Department of Health Care Access and Information (HCAI), and requires a health care entity to provide OHCA with written notice of agreements or transactions that will occur on or after April 1, 2024, at least 90 days prior to entering into an agreement to sell or transfer control, as specified. [Health and Safety Code (HSC) §127507]

This bill:

1) Requires a private equity group or hedge fund to provide written notice to, and obtain the written consent of, the AG prior to a transaction between it and a health care facility (includes clinics, labs, long-term care, outpatient settings, ambulatory surgical centers, clinical laboratories, imaging facilities and others), provider group, or, a provider (two to nine licensed health professionals, including physicians) if the private equity group or hedge fund has been involved, directly or indirectly, in a transaction involving a health care facility, provider group, provider, or related health care services within the past seven years. Defines a "provider group" as a group of 10 or more licensed health professionals, or, two to nine licensed health professionals with gross annual revenue over $25 million. A provider group may include any combination of licensed health professionals but does not include a professional medical corporation or medical partnership that provides, delivers,

or furnishes health care services and is composed of nine or fewer physicians with gross annual revenue of less than $25 million. Excludes a group if the primary purpose is to deliver dermatology. Also includes any health care facility, provider group, or provider that directly or indirectly controls, is controlled by, is under common control of, or is otherwise affiliated with a payor, if the private equity group or hedge fund has been involved, directly or indirectly, in a transaction involving a health care facility, provider group, or provider.

2) Defines "Hospital" as a general acute care hospital, acute psychiatric hospital, or special hospital, as those terms are defined in existing law.

3) Exempts from the consent requirement in 1) above, a transaction between a private equity group or hedge fund and a nonphysician provider, or, between a private equity group or hedge fund and a provider, if the nonphysician provider has gross annual revenue of more than $4 million or, the provider has gross annual revenue between $4 million and $25 million and is not required to provide written notice. In this provision an advance notice to the AG is required but AG written consent is not. Written notice and consent is not required for a transactions involving health insurers and health plans where the regulator is reviewing cost impact or market consolidation, county purchasers, health districts. Requires hospital districts to request and consider an advisory opinion from the AG. Transactions prior to January 1, 2025 are also exempt.

4) Exempts, from the written notice and consent requirements, a private equity group or hedge fund granted a written waiver from the AG. Allows the AG to grant a waiver within 45 days if specified conditions apply, such as:

    a) The health care facility, provider group, or provider's operating costs have exceeded its operating revenue in the relevant market for three or more years and the party cannot meet its debts as they come due;
    b) The health care facility, provider group, or provider is at grave risk of immediate business failure and can demonstrate a substantial likelihood that it will have to file for Chapter 11 bankruptcy under the federal Bankruptcy Act absent the waiver;
    c) The transaction will ensure continued health care access in the relevant markets; and,
    d) The health care facility, provider group, or provider has made commercially reasonable best efforts in good faith to elicit reasonable alternative offers that would keep its assets in the relevant markets and that would pose a less

severe danger to competition and access to care than the proposed transaction.

5) Requires the notice to be submitted at the same time that any other state or federal agency is notified, and otherwise to be provided at least 90 days before the transaction, and to contain information sufficient to evaluate the nature of transaction and information sufficient for the AG to determine that the specified criteria have been met or that a waiver may be granted. Allows the AG to extend this 90-day period for one additional 45-day period, in addition to any time for which the period is stayed, if specified conditions are met. Allows the AG to extend the timeframes by 14 days if the AG decides to hold a public meeting. If the time periods expire and the AG has not issued a written decision, the private equity group or hedge fund may close the transaction.

6) Establishes, as factors for the AG's determination to consent, conditionally consent, or not consent to a transaction, whether the transaction may have a substantial likelihood of anticompetitive effects including:

   a) A substantial risk of lessening competition;
   b) Creating a monopoly; or,
   c) A significant effect of the access or availability of health care services to the affected community.

7) Requires the AG to apply the "public interest standard," which is defined as being in the interests of the public in protecting competitive and accessible health care markets for prices, quality, choice, accessibility, and availability of all health care services for local communities, regions, or the state as a whole. Includes additional parameters, as specified in this bill. Permits the AG, in the public interest, to take account of any other negative or positive effects of the transaction. Prohibits transactions from being presumed to be efficient for the purpose of assessing compliance with the public interest standard.

8) Requires the AG to make a written determination, including the factual basis for the determination.

9) Permits an opportunity for the private equity group or hedge fund to elect, within three days of the public hearing but no later than 14 days prior to the issuance of a written determination, to request an evidentiary hearing before a presiding officer. Requires 60 days following the request of a 72-hour hearing by electronic means with submission of relevant evidence, and testimony.

Upon completion, requires the presiding officer to issue an order closing the hearing record after giving the parties three days to determine if the record is complete or needs to be supplemented. Allows hearing parties to file findings of fact and conclusions of law and order within 21 days of the closing of the record. Requires the presiding officer, within 60 days of the reply findings of fact, conclusions of law, and briefs, to submit a proposed decision to the AG. Requires the AG to make a decision within 45 days of the proposed decision.

10) Permits the private equity group or hedge fund to elect to proceed to an evidentiary hearing before an administrative law judge on the issue of whether the proposed transaction meets the criteria established in this bill and any other issue identified by the AG in the written determination. Establishes procedures for the hearing, including that the AG has the burden of proof of the factors that formed the basis of the AG's written decision. Requires the Office of Administrative Hearings to prioritize the scheduling of these hearings.

11) Gives an additional opportunity for the private equity group or hedge fund to seek judicial review of the AG's final decision within 30 calendar days by a superior court pursuant to specified procedures under section 1094.5 of the Code of Civil Procedure (CCP). Allows a Superior Court to exercise its independent judgement on the evidence, and abuse of discretion.

12) Requires the AG's determination to be based on an administrative record provided to the court and to the parties upon appeal of the AG's final determination. Requires the administrative record to consist of any evidence submitted, comments from the public meeting, any official reports by experts hired by the AG.

13) Prohibits a private equity group or hedge fund involved in any manner with a physician, psychiatric, or dental practice doing business in this state, including as an investor, or as an investor or owner of the assets, from:

    a) Interfering with the professional judgment of physicians, psychiatrists, or dentists in making health care decisions, including, but not limited to:

        i) Being responsible for the ultimate overall care of the patient, including treatment options available to the patient; or,
        ii) Determining how many patients a physician, psychiatrist or dentist must see in a given period of time or how many hours a physician, psychiatrist or dentist must work; and,

b) Exercising control over, or be delegated the power to do such as setting the parameters under which a physician, psychiatrist, dentist, or physician, psychiatric, or dental practice will enter into contractual relationships with third-party payers, and setting the parameters under which a physician, psychiatrist, or dentist will enter into contractual relationships with other physicians, psychiatrists, or dentists for the delivery of care.

14) Prohibits a private equity or hedge fund, or entity controlled directly by one, from entering an agreement or arrangement with a physician, dental, or psychiatric practice from entering into any agreement or arrangement, if the agreement or arrangement would enable the interference with the professional judgement of physicians, psychiatrists, or dentists in making health care decisions.

15) Prohibits any contract involving the management of a physician, dental, or psychiatric practice doing business in this state by, or the sale of real estate or other assets owned by a physician, dental, or psychiatric practice doing business in this state to, a private equity group or hedge fund, or any entity controlled directly or indirectly in whole or in part by a private equity group or hedge fund from explicitly or implicitly including any clause barring any provider in that practice from competing with that practice in the event of a termination or resignation of that provider from that practice, or from disparaging, opining, or commenting on that practice in any manner as to any issues involving quality of care, utilization of care, ethical or professional challenges in the practice of medicine or dentistry, or revenue-increasing strategies employed by the private equity group or hedge fund. Voids, any such explicit or implicit contractual clauses making them unenforceable, and against public policy. This shall not impact the validity of an otherwise enforceable sale of business noncompete agreement, but a contract described in this paragraph shall not operate as an employee noncompete agreement.

16) Makes the AG entitled to injunctive relieve, and other equitable remedies, including recovery of fees and costs. Permits the AG to adopt regulations. This applies to 13) – 15) above.

17) Permits the AG to contract with state agencies, experts or consultants on a noncompetitive basis and enforce provisions to the fullest extent of the law, as specified.

18) Exempts transactions involving private equity groups or hedge funds that are subject to review by the AG pursuant to this bill from the OHCA notice requirements to the same extent as notice requirements are exempted for health plans, insurers, and nonprofit corporations, as specified.

Comments

According to the author, private equity investments and acquisitions in health care are growing exponentially and research shows why these transactions need review to ensure they are in the public interest. There is no oversight for these transactions now. They have resulted in accelerated consolidation, which in turn, reduces competition and creates monopolies that use leverage to increase prices, negotiate higher fees that result in premium increases and can restrict access to services such as labor and delivery and reproductive health care. This hits communities hard, and more rural areas are especially vulnerable. This bill does not prohibit these transactions and allows the review to occur within a reasonable timeline and accommodates health care entities that are in financial distress. Given the high amount of debt that is used to finance these transactions, which becomes a burden to the entity, has resulted in bankruptcy as it did with Steward Health Care in Massachusetts where several hospitals are now facing closure. Opponents argue that the OHCA was intended to address this concern, but it does not. OHCA looks at the data, analyzes and sets cost targets but only after these transactions have happened. This bill authorizes the AG to consider the impact to the public before they occur.

[Note: See Senate Health Committee analysis for more information.]

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

According to the Senate Appropriations Committee, unknown ongoing General Fund costs for the Department of Justice for state administration. Unknown costs for the Department of General Services related to workload for potential cases filed with its Office of Administrative Hearings.

SUPPORT: (Verified 8/12/24)

Attorney General Rob Bonta (source)
Alliance of Californians for Community Empowerment Action
American Academy of Emergency Medicine
American Federation of State, County and Municipal Employees, AFL-CIO
Asian Resources, INC
California Academy of Family Physicians

California Black Health Network
California Dental Association
California Labor Federation
California LGBTQ Health and Human Services Network
California Medical Association
California Nurses Association
California Pan-ethnic Health Network
California Physicians Alliance
California State Association of Psychiatrists
California State Council of Service Employees International Union
California State Retirees
California Teachers Association
California Public Interest Research Group
Courage California
Health Access California
Leukemia and Lymphoma Society
Long Beach Gray Panthers
Maternal and Child Health Access
National Union of Healthcare Workers
Nextgen California
Purchaser Business Group on Health
Reproductive Freedom for All CA
Small Business Majority
The Leukemia & Lymphoma Society
4 Individuals

OPPOSITION: (Verified 8/14/24)

Alliance of Catholic Health Care
American Investment Council
Association of Dental Support Organizations
Balboa Nephrology Medical Group
California Association of Public Hospitals & Health Systems
California Association of Health Facilities
California Business Properties Association
California Chamber of Commerce
California Hospital Association
California Urgent Care Association
Children's Choice Dental Care
Ivy Fertility
Mindpath Health

Private Essential Access Community Hospitals
PRN
Smile Brands
Town Hall Ventures
United Hospital Association

ARGUMENTS IN SUPPORT: Attorney General Rob Bonta, who is the sponsor, writes that this bill would safeguard fair competition and root out predatory practices in the health care industry by reviewing health care transactions involving private equity and hedge funds and reinforcing the existing bar on the corporate practice of medicine as it applies to the interference of private equity groups or hedge funds in the medical care of patients. When a short-term profit-driven business model is applied to our health care system, there is an incentive to raise prices, cut costs, and pay out any revenue to private equity investors. This often leads to staffing shortages, failures to pay vendors, and increased costs for patients and employers. Instead of practicing medicine in the best interest of patients, physicians are directed to hit patient quotas and push more profitable procedures. Over time, this directly leads to the closure or scaling back of health care providers. In health care facilities, private equity backed acquisitions have led to a higher rate of serious medical errors in hospitals and increased mortality in nursing homes. Increased deaths among seniors in nursing homes is likely due to a combination of lower staffing levels and cutting corners on meeting standards of care. In addition, appointment times can be curtailed and waiting times increased. Ultimately, this type of impact has been particularly noticeable on California patients that live in areas with limited health care access. Comparing communities where private equity dominate physician specialties to other U.S. markets, price increases are up to three times higher. Additionally, existing law recognizes the conflict of interest between treating patients and the control of medical decision making by corporate entities by favoring the former. Yet, experience with private equity groups has revealed that companies direct physicians to maximize revenue generated per patient at the expense of patient treatment, cost, and quality of care. Private equity groups further use non-compete and non-disparagement agreements to block health care providers from discussing concerns about quality of care and working conditions.

The American Academy of Emergency Medicine writes that anti-corporate practice of medicine laws across the country suffer from lack of enforcement. The AG's affirmative consent of any transaction from a private equity firm or hedge fund of a healthcare facility is a good potential guardrail. If passed, this bill would serve as a new gold standard for other states to emulate. They also support a provision that prohibits restrictive covenants, also known as non-compete clauses.

Some contract holders and hospital administrators control emergency physicians through exploitative contractual provisions. These provisions include restrictive covenants that control where emergency physicians may work upon contract termination, violating their professional rights and effectively preventing them from advocating for their patients. The threat of termination from a hospital medical staff, as well as a restrictive covenant, may prevent physicians from advocating for their patients if the hospital or contract holder opposes such advocacy.

The California Physicians Alliance writes that a recent report by the American Antitrust Institute and the Petris Center at UC Berkeley highlights the incompatibility of the private equity model with a healthcare system that prioritizes patient care. Private equity's focus on rapid revenue generation and consolidation undermines competition, destabilizes markets, and often escapes regulatory scrutiny. The report calls for urgent oversight to mitigate these negative impacts.

ARGUMENTS IN OPPOSITION: The American Investment Council (AIC) believes the definition of private equity would capture more investors than just private equity funds, but not all for-profit investors. AIC takes issue with recent amendments that "strip" them from the OHCA process. AIC writes this bill would vest in the AG unbridled discretion to reject or condition a for-profit transaction based on a finding of a "substantial likelihood" of anticompetitive effects under a vague "public interest" standard. While this bill outlines some factors that the AG is to consider in making their determination under the "public interest standard," it expressly provides that the AG may "take account of any other negative or positive effects of the merger." This language provides the AG with a "catchall" to broadly consider any factor that they, unilaterally, deem important, which poses material uncertainty regarding a reporting entity's evidentiary burden. Even sophisticated investors would not be able to accurately predict if a potential transaction would meet these criteria, which would be wholly dependent on the views of a particular AG. In effect, the virtually unchecked authority vested in the AG by this bill means there is not a consistent rule of law to guide private investors interested in providing funding and investment to health providers. To the degree an investor must know they will be able to reasonably exit an investment down the road, it would be impossible to predict. Given the broad power the bill provides the AG to approve or deny transactions, it is unclear what practical value the appeal process included in the amended bill would provide. This bill defines "change of control" to include a *change in governance*, which captures a plethora of minor changes in governance that are immaterial to the operations of the health care entity, such as the appointment or substitution of a single board member, or even the appointment of a board observer. The "change in governance" criterion would pick up many

transactions that would fall well short of what is typically considered to be a change of control (i.e., 50% or more ownership interest). AIC writes inherent in the new review and approval powers is the reality that the AG will deny certain private capital investments. Investments will also be foregone due to the uncertainty caused by the approval and review powers. Furthermore, the bill also appears to be intended to drive private capital investments out of physician practices. IVY Fertility writes that since 2021, a Management Services Organization has invested over $12 million to help develop two full-service clinics, increasing capacity and reducing wait times. Additional investments are planned and the partnership has helped improve clinical outcomes and make reproductive care more affordable. The result has been a 15% reduction in out-of-pocket medication costs and an 18% reduction in the cost of some procedures with certain payors. IVY Fertility indicates that reproductive endocrinology is a highly specialized and capital-intensive field and in vitro fertilization centers are expensive to build given the lab equipment and standards imposed by the U.S. Food and Drug Administration and regulatory bodies. IVY Fertility is concerned about the implications this bill will have on reproductive health care. Children's Choice has expanded to 25 locations, with access to capital from a private equity firm, and plans to open new clinics that are dedicated to providing quality dental care in underserved communities and ensuring that low-income Californians' dental needs are met. Children's Choice believes this bill is threatening their ability to raise additional capital from private equity and its enactment will send a strong message that private equity capital investment is no longer welcome in California.

ASSEMBLY FLOOR: 50-16, 5/21/24
AYES: Addis, Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bonta, Bryan, Calderon, Juan Carrillo, Connolly, Mike Fong, Garcia, Gipson, Grayson, Haney, Hart, Irwin, Jackson, Jones-Sawyer, Kalra, Lee, Low, Lowenthal, Maienschein, McCarty, McKinnor, Muratsuchi, Ortega, Papan, Pellerin, Quirk-Silva, Ramos, Rendon, Reyes, Luz Rivas, Rodriguez, Santiago, Schiavo, Soria, Ting, Valencia, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas
NOES: Alanis, Bains, Chen, Davies, Dixon, Essayli, Flora, Vince Fong, Gallagher, Hoover, Lackey, Jim Patterson, Joe Patterson, Sanchez, Ta, Waldron

NO VOTE RECORDED: Boerner, Wendy Carrillo, Cervantes, Megan Dahle, Friedman, Gabriel, Holden, Mathis, Stephanie Nguyen, Pacheco, Petrie-Norris, Blanca Rubio, Villapudua, Wallis

Prepared by: Teri Boughton / HEALTH / (916) 651-4111
8/29/24 16:35:32

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

SENATE RULES COMMITTEE AB 3134
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 3134
Author: Chen (R)
Amended: 8/23/24 in Senate
Vote: 21

SENATE REVENUE AND TAXATION COMMITTEE: 7-0, 6/26/24
AYES: Glazer, Dahle, Ashby, Bradford, Dodd, Padilla, Skinner

ASSEMBLY FLOOR: 71-0, 5/21/24 (Consent) - See last page for vote

SUBJECT: Property taxation: refunds

SOURCE: State Association of County Auditors

DIGEST: This bill makes changes to laws guiding property tax refunds.

Senate Floor Amendments of 8/23/24 delete provisions of the bill ceasing the interest computation period as of the date the auditor sends a notice to the taxpayer that they are due a refund but the taxpayer does not respond by filing a claim, and makes conforming changes.

ANALYSIS:

Existing law:

1) Directs the Legislature to create a process for taxpayers to recover illegally assessed taxes, with interest. (California Constitution, Article XIII, Section 32)

2) Allows counties to issue refunds of property taxes that are:

   a) Paid more than once.

   b) Collected, assessed, or levied erroneously or illegally.

c) Paid on an assessment in excess of the amount owed by reason of the assessor's clerical error, or excessive or improper assessments attributable to erroneous property information supplied by the taxpayer.

d) Paid on an assessment of improvements when the improvements did not exist on the lien date.
e) Paid on an assessment in excess of the value of the property, including pursuant to a determination by the county assessment appeals board.

3) Directs the county auditor to either process a refund or notify a taxpayer in writing when a roll correction results in a refund.

4) Requires the notice to state the taxpayer is entitled to a refund and that they must file a refund claim within 60 days of the date of the notice.

5) Allows, generally, taxpayers or their guardians, executors, trustees, or administrators to file a claim for refund within four years after making the payment, with some different periods for overpayments, assessment appeals, and claims for the disabled veterans' exemption, among others.

6) Allows the person who paid the tax to bring an action in superior court against the county assessor's office to recover the tax if the county denies the refund claim.

7) Provides counties may pay refunds to the recorded owner of a property in specified circumstances rather than to the person who actually paid the tax where the property had not changed ownership and the refund was less than $5,000.

8) Allows, generally, auditors to pay refunds without a claim if the property had not changed ownership, the refund was less than $5,000, and the board of supervisors adopts a resolution or ordinance making this process operative (SB 1246, Gaines, Chapter 358, Statutes of 2018).

9) Provides all property is taxable unless explicitly exempted by the Constitution or federal law (Article XIII, Section One), including an exemption for property owned by the state or a local government.

10) Automatically extinguishes the property tax obligation of the previous owner when a public agency acquires a property, effective upon the earlier of the date of acquisition, or the date of possession or acquisition by a public agency acquiring the property by eminent domain.

11) States that any unpaid taxes up to that date are still due and payable, but are cancelled if the acquisition date is after the lien date but prior to commencement of the fiscal year.

12) Does not clearly state that cancelling any taxes accruing during this period on property acquired by a public agency must be refunded to the taxpayer.

This bill:

1) Allows refunds to be paid without the taxpayer filing a claim when:

   a) The refund is due to the disabled veterans' exemption from property tax; or

   b) The refund is due to another exemption from property tax, would not exist but for the assessee or qualifying occupant of the property meeting the requirements for an exemption, and the refund is less than $10,000.

2) Increases from $5,000 to $10,000 the thresholds for automatic refunds due to value reductions, roll corrections, cancellations, and when the refund is issued to the recorded owner of the property rather than to the person who actually paid the tax.

3) Directs the auditor to either process a refund to the taxpayer, or notify them of the requirements for obtaining a refund, when taxes are cancelled as a result of a public agency acquiring property.

4) Requires the notice to state that the taxpayer is entitled to a refund but they must file a claim within 60 days of the date of the notice.

5) Deems a refund claim timely filed if it is filed within 60 days of the date of the notice.

6) Provides an auditor may send notice of a refund to the taxpayer whenever a refund is due and payable, unless a taxpayer already filed a refund claim.

7) Requires the notice be sent to the taxpayer's last known address, state the amount of overpayment, and that the taxpayer must file a claim for refund.

8) Makes technical and conforming changes.

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

SUPPORT: (Verified 8/26/24)

State Association of County Auditors (source)
California Association of County Treasurer-Tax Collectors
California Association of Realtors
California State Association of Counties

OPPOSITION: (Verified 8/26/24)

None received

ARGUMENTS IN SUPPORT: According to the author, "AB 3134 takes important steps to expedite the payment of property tax and assessments refunds to taxpayers. When a county auditor identifies that a taxpayer is due a property tax or assessment refund, it is important that we take the necessary steps to streamline the process to connect that taxpayer with the money due. There is already a process for immediately remitting these payments for amounts less than $5,000 without a claim for refund; this measure would appropriately increase that amount to $10,000; capturing a larger percentage of the outstanding refunds. This bill will also set into place a reasonable time limit for interest accrual on refunds that require a claim."

ASSEMBLY FLOOR: 71-0, 5/21/24
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Juan Carrillo, Wendy Carrillo, Chen, Connolly, Davies, Dixon, Essayli, Flora, Mike Fong, Vince Fong, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, 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: Calderon, Cervantes, Megan Dahle, Friedman, Gabriel, Holden, Mathis, Papan, Luz Rivas

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8/26/24 17:38:00

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

Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 3138
Author: Wilson (D)
Amended: 8/23/24 in Senate
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 14-0, 6/25/24
AYES: Cortese, Niello, Allen, Archuleta, Becker, Blakespear, Dahle, Dodd, Gonzalez, Laird, Limón, Newman, Nguyen, Seyarto
NO VOTE RECORDED: Umberg

SENATE JUDICIARY COMMITTEE: 10-0, 7/2/24
AYES: Umberg, Wilk, Allen, Caballero, Durazo, Laird, Niello, Roth, Stern, Wahab
NO VOTE RECORDED: Ashby

SENATE APPROPRIATIONS COMMITTEE: 6-1, 8/12/24
AYES: Caballero, Jones, Ashby, Becker, Bradford, Seyarto
NOES: Wahab

ASSEMBLY FLOOR: 65-0, 5/23/24 - See last page for vote

SUBJECT: License plates and registration cards: alternative devices

SOURCE: Author

DIGEST: This bill allows personal vehicles to be equipped with digital license plates that include vehicle location technology.

Senate Floor Amendments of 8/23/24 remove a requirement that the DMV analyze the state's ability to regulate the messages displayed on license plates, given a recent court decision bringing that ability into question. The DMV contends that such an analysis is unnecessary because they have already done such an analysis and do not allow additional messages on license plates.

ANALYSIS:

Existing law:

1) Requires the Department of Motor Vehicles (DMV) to issue two reflectorized license plates for vehicles and specifies that:

   a) Each plate must display the word "California," the vehicle's registration number, and the year for which the vehicle's registration is valid; and,
   b) For license plates other than motorcycles, the license must be rectangular in shape, 12 inches in length, and six inches in width. (Vehicle Code Section (VEH) 4850)

2) Authorizes DMV to establish a pilot program to evaluate the use of alternatives to traditional license plates and registration cards. The alternatives must be approved by the California Highway Patrol (CHP). The pilot program ceases upon adoption of permanent regulations. (VEH 4853)

3) Prohibits an alternative device from including vehicle location technology, except for fleet vehicles. The DMV shall recall any devices with vehicle location technology by January 1, 2024 except those devices installed on fleet vehicles, commercial vehicles, and those operating under an occupational license. (VEH 4854)

4) Requires that vehicle location technology, if any, be capable of being disabled by the user; provide that vehicle location technology, if any, may be capable of being manually disabled by a driver of the vehicle while that driver is in the vehicle; and require that the alternative device display a visual indication that vehicle location technology is in active use. (VEH 4854)

5) Prohibits the provider of an alternative device from sharing or selling any information obtained by virtue of contracting with the department to provide the device, including, but not limited to, information collected by the device itself. (VEH 4854)

6) Requires that an alternative device intended to serve in lieu of a license plate be subject to specified visibility and readability requirements, be readable by automated license plate readers used by the CHP and any other automated enforcement system, and display only information and images approved by or deemed necessary by the DMV. (VEH 4854)

7) Prohibits an employer from using an alternative device to monitor employees except during work hours, and unless strictly necessary for the performance of the employee's duties; prohibit an employer from retaliating against an employee for removing or disabling an alternative device's monitoring capabilities outside of work hours; and authorize an employee who believes they have been subject to a violation of this provision to file a complaint with the Labor Commissioner as specified, and to receive specified penalties, remedies, and compensation. (VEH 4854)

8) Authorizes the Labor Commissioner to enforce the provisions specified above and subjects an employer who violates those provisions to a civil penalty of $250 for an initial violation and $1,000 per employee for each subsequent violation. (VEH 4854)

This bill:

1) Allows alternative devices with vehicle location technology to be used on all vehicles beginning January 1, 2027.

2) Deletes the requirement to recall all alternative devices equipped with vehicle location technology that were issued during the pilot program.

3) Provides that an alternative device equipped with vehicle location technology shall be capable of having the location technology permanently disabled, that the vehicle location technology shall be capable of being manually disabled and enabled by the driver while the driver is inside the vehicle, and that the method of disabling and enabling the technology shall be prominently located and easy to disable, without requiring access to an online application, password, or log-in information.

4) Provides that once the vehicle location technology is disabled from inside the vehicle, the only way to re-enable the vehicle location technology shall be manually from inside the vehicle.

5) Allows the DMV to authorize an alternative device to replicate the appearance of a special license plate, a special interest license plate, an environmental license plate, and a specialized license plate.

Comments

1) *Pilot Program*. The DMV has an ongoing pilot program for alternative (e.g. digital) license plates. These are offered by Reviver for $699 plus an annual fee. Thirty thousand of these plates are in use, which is about 0.1% of registered vehicles. The pilot program is ongoing and will end once the DMV issues final regulations. At that point, any devices that do not comply with those regulations will need to be withdrawn, subject to the new provisions in this bill. In 2019, the DMV issued its report on the pilot program, finding "no significant law enforcement, DMV, or customer concerns".[1]

2) *Banners*. License plates serve an important public safety purpose. They are required on every vehicle that uses public roads and are subject to readability requirements including character size, positioning, retro-reflectivity, and readability by automated license plate readers. Unlike traditional license plates, digital license plates are changeable and flexible with endless opportunities for messages and images. The DMV currently prohibits additional messages on digital license plates.

3) *Privacy Protections*. The opposition to the bill is based on concerns that the new privacy provisions are less protective than current law and could lead to harm. Current law contains stringent protections to protect the privacy of vulnerable groups, including a prohibition on the use of vehicle location technology on personal vehicles. These protections were contentious and the result of many weeks of negotiations in 2022.

   This bill revises those privacy protections beginning on January 1, 2027, deleting the personal vehicle prohibition and the requirement that if the device is equipped with vehicle location technology, there shall be a visual indicator when it is in use. Instead, the bill requires that the vehicle location technology can be disabled by a nonreversible method, that the technology shall be capable of being manually disabled and enabled by the driver while inside the vehicle, that the method of enabling and disabling the vehicle location technology shall be prominently located inside the vehicle and easy to use without requiring access to an online application or password, and that the only way to re-enable the location technology shall be manually from inside the vehicle.

[1] "Report on Alternative Registration Products Pilot Program"; DMV, August 2019.

Opponents believe these new provisions turn digital license plates into surveillance trackers, making them potentially harmful to domestic violence survivors, the LGBTQI community, and immigrants.

4) *No Recall*. This bill deletes the requirement to recall all alternative devices issued during the pilot that were equipped with location technology, provided that technology meets the privacy protections established by the bill. Under the pilot program only fleet and commercial vehicles are permitted to have the location technology, not personal vehicles.

5) *All plates*. This bill authorizes the DMV to issue digital license plates that replicate the appearance of California's specialty license plates, including plates for the disabled as well as environmental and special interest license plates.

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

According to the Senate Appropriations Committee:

- The Department of Motor Vehicles (DMV) estimates one-time costs in the range of $115,000 to develop and adopt regulations regarding the use of alternative license plates beginning in 2027, as specified. (Motor Vehicle Account)

- DMV estimates costs in the range of $20,000 to complete the report to the Legislature on the state's authority to regulate the content and messaging on traditional and digital license plates. (Motor Vehicle Account)

SUPPORT: (Verified 8/23/24)

CA Black Chamber of Commerce
California Black Chamber of Commerce
California New Car Dealers Association
California Police Chiefs Association
North Bay Landscape Management, INC.
North Bay Landscaping Managment
Revivermx

OPPOSITION: (Verified 8/23/24)

ACLU California Action
American Civil Liberties Union California Action
Anti Police-terror Project

California Partnership to End Domestic Violence
Consumer Federation of America
Electronic Frontier Foundation
Gender Justice Los Angeles
National Center for Lesbian Rights
Oakland Privacy
Privacy Rights Clearinghouse
Secure Justice

ARGUMENTS IN SUPPORT: Revivermx's digital license plates are operational, durable, safe, and secure, readable by tolling authorities and law enforcement License Plate Readers. In addition, the owner of the vehicle can either enable or disable the GPS functionalities. California, Texas, and Arizona have tested Reviver's Digital License Plates with Low-level Automated License Plate Readers. Each found that Reviver's Digital License Plates are readable during the day and night, and visible to the human eye from a distance of 100 feet during daylight. California leads the way in technology and innovation, but as the Legislature works to further our advancement and modernization technologically, the privacy of residents must remain top of mind. AB 3138 – Digital License Plates – will help to do this by improving the parameters around vehicle location technology in alternative devices. It will do this by requiring compliance of these devices to ensure they are capable of the following:

1) Being permanently disabled, immediately stopping all location and tracking functionality; and
2) Being manually disabled and enabled by the driver while inside the vehicle.

ARGUMENTS IN OPPOSITION: Organizations listed in opposition of this bill state that digital license plates are part of a growing list of GPS-enabled technology options that have turned into surveillance trackers. While well-intended, those exploited by this technology are individuals from our most vulnerable communities: domestic violence survivors, the LGBTQI community, immigrants, people seeking abortions, rural communities, and communities of color more broadly. Including GPS tracking capability into digital license plates threatens to hurt people in vulnerable positions. For example, A.B. 3138 would jeopardize the safety of those traveling to California from a state that criminalizes abortions. People may not be aware that a rideshare vehicle is recording their drive to a Planned Parenthood clinic, or be unable to convince a driver to disable tracking that could generate data that can be used as evidence against them in a state where abortion is criminalized. Similarly, Immigrations and Customs Enforcement (ICE)

could use the GPS surveillance technology to track and locate immigrants, as it has done with other location tracking devices. Unsupportive parents of queer youth could use GPS-loaded plates to monitor whether teens are going to local LGBTQI Centers or events—or use the threat of pervasive tracking as a way to keep young people from seeking support in the first place. Finally, there are serious implications in domestic violence situations, where GPS tracking is already being abused.

ASSEMBLY FLOOR: 65-0, 5/23/24
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Chen, Connolly, Dixon, Flora, Mike Fong, Vince Fong, Friedman, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Hoover, Irwin, Jackson, Jones-Sawyer, Lee, Low, Lowenthal, Maienschein, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Rendon, Reyes, Rodriguez, Santiago, Schiavo, Soria, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Wicks, Wilson, Wood, Zbur, Robert Rivas
NO VOTE RECORDED: Bonta, Cervantes, Megan Dahle, Davies, Essayli, Gabriel, Holden, Kalra, Lackey, Mathis, Luz Rivas, Blanca Rubio, Sanchez, Ta, Weber

Prepared by: Randy Chinn / TRANS. / (916) 651-4121
8/25/24 13:35:59

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

SENATE RULES COMMITTEE AB 3172
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 3172
Author: Lowenthal (D)
Amended: 8/15/24 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 11-0, 6/25/24
AYES: Umberg, Wilk, Allen, Ashby, Caballero, Durazo, Laird, Niello, Roth, Stern, Wahab

SENATE APPROPRIATIONS COMMITTEE: 5-1, 8/15/24
AYES: Caballero, Ashby, Becker, Bradford, Wahab
NOES: Jones
NO VOTE RECORDED: Seyarto

ASSEMBLY FLOOR: 65-0, 5/20/24 - See last page for vote

SUBJECT: Social media platforms: injuries to children: civil penalties

SOURCE: Author

DIGEST: This bill increases the penalties that can be sought against a social media platform, as defined, if the platform knowingly and willfully fails to exercise ordinary care or skill toward a child.

ANALYSIS:

Existing federal law:

1) Provides, in federal law, that a provider or user of an interactive computer service shall not be treated as the publisher or speaker of any information provided by another information content provider. (Title 47 United States Code (U.S.C.) § 230(c)(1))

2) Provides that a provider or user of an interactive computer service shall not be held liable on account of:

a) any action voluntarily taken in good faith to restrict access to or availability of material that the provider or user considers to be obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable, whether or not such material is constitutionally protected; or
b) any action taken to enable or make available to information content providers or others the technical means to restrict access to such material. (Title 47 U.S.C. § 230(c)(2))

Existing state law:

1) Provides that every person is responsible, not only for the result of their willful acts, but also for an injury occasioned to another by the person's want of ordinary care or skill in the management of their property or person, except so far as the latter has, willfully or by want of ordinary care, brought the injury upon themselves. (Civil Code § 1714(a))

2) Defines "social media platform" as a public or semipublic internet-based service or application that has users in California and that meets both of the following criteria:

   a) A substantial function of the service or application is to connect users in order to allow users to interact socially with each other within the service or application. A service or application that provides email or direct messaging services shall not be considered to meet this criterion on the basis of that function alone.
   b) The service or application allows users to do all of the following:

      i) Construct a public or semipublic profile for purposes of signing into and using the service or application.
      ii) Populate a list of other users with whom an individual shares a social connection within the system.
      iii) Create or post content viewable by other users, including, but not limited to, on message boards, in chat rooms, or through a landing page or main feed that presents the user with content generated by other users. (Business & Professions Code § 22675(e))

This bill:

1) Provides that a social media platform that knowingly and willfully breaches its responsibility of ordinary care and skill to a child shall, in addition to any other remedy, be liable for civil penalties for the larger of the following:

   a) $5,000 per violation up to a maximum of $250,000.
   b) Three times the amount of the child's actual damages.

2) Provides that the civil penalties laid out above are only available in an action brought by the Attorney General, a district attorney, or a city attorney. No less than 51 percent of the recovered civil penalties recovered must be deposited into the Safe Social Media Fund, hereby established.

3) Provides that the duties, remedies, and obligations it imposes are cumulative to the duties, remedies, or obligations imposed under other law and shall not be construed to relieve a social media platform from any duties, remedies, or obligations imposed under any other law.

4) Includes a severability clause and applies to causes of action arising from conduct occurring on or after January 1, 2026. Any attempted waiver is void and unenforceable.

5) States findings and declarations.

Comment

Existing negligence law imposes a responsibility on everyone, including social media platforms, for injuries occasioned to others by their want of ordinary care or skill in the management of their property or person. This bill does not alter any existing duty. Rather, it seeks to acknowledge the unique impacts that social media platforms are shown to have on a particularly vulnerable population, California's children.

This bill does that by increasing the remedies that certain public prosecutors may seek when social media platforms break this existing duty to refrain from causing children injury, but only when they do so knowingly and willfully. This bill provides for civil penalties from $5,000 to $250,000 per violation, or three times the child's actual damages, whichever is more. At least half of the recovered penalties must be deposited into a fund established by the bill to be used for raising awareness regarding safe social media use.

According to the author:

> This bill holds social media platforms accountable for the harm they cause to children and teenagers. This legislation would impose financial liabilities on large social media companies if proven in court that they knowingly offered products or design features that resulted in harm or injury to minors and are found to violate long standing state negligence law.

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

According to the Senate Appropriations Committee:

- Unknown, potentially significant cost pressure to the state funded trial court system (Trial Court Trust Fund, General Fund) to adjudicate the claims created by this bill. Creating a new civil enforcement penalty could lead to lengthier and more complex court proceedings with attendant workload and resource costs to the court. An eight-hour court day costs approximately $8,000 in staff in workload. If the bill results in only 12 or more days spent in court, trial court costs could be in the hundreds of thousands of dollars. While the courts are not funded on a workload basis, an increase in workload could result in delayed court services and would put pressure on the General Fund to fund additional staff and resources and to increase the amount appropriated to backfill for trial court operations. The Budget Act of 2024, for the fiscal year beginning July 1, 2024, includes a $97 million reduction to the trial courts, a commensurate reduction of up to 7.95 percent to the budget for the state-level judiciary, and a reduction of the trial court state-level emergency reserve in the Trial Court Trust Fund from $10 million to $5 million. The Budget Act also includes a $37.3 million General Fund backfill for the Trial Court Trust Fund to address the continued decline in civil fee and criminal fine and penalty revenues expected in fiscal year 2024–25.

- Workload cost pressures (Unfair Competition Law Fund, local funds) to the Department of Justice (DOJ) and local prosecutors of an unknown but potentially significant amount. If state and local prosecutors file enforcement actions as authorized by this bill, it may result in a significant workload increase. DOJ indicates that the Consumer Protection Section, within the Public Rights Division, anticipates an increase in workload in investigating and prosecuting of violations of the requirements of this bill. To address the increase in workload, CPS will require the following resources in each fiscal

year beginning on January 1, 2026 and ongoing: 1.0 Deputy Attorney General (DAG) and 1.0 Legal Secretary (Legal Complement to DAG). The fiscal impact is estimated $500,000 ongoing.

SUPPORT: (Verified 8/18/24)

California School Boards Association
California Teachers Association
Children's Advocacy Institute
Common Sense Media
Democrats for Israel - CA
Democrats for Israel Los Angeles
Etta
Fred Whitaker, Chair of Orange County Republican Party
Hadassah
Holocaust Museum LA
Jakara Movement
Jewish Center for Justice
Jewish Community Federation and Endowment Fund
Jewish Democratic Club of Marin
Jewish Democratic Club of Solano County
Jewish Democratic Coalition of the Bay Area
Jewish Family and Children's Service of Long Beach and Orange County
Jewish Family and Children's Services of San Francisco, the Peninsula, Marin and Sonoma Counties
Jewish Family Service of Los Angeles
Jewish Family Services of Silicon Valley
Jewish Federation of Greater Los Angeles
Jewish Federation of the Greater San Gabriel and Pomona Valleys
Jewish Long Beach
Jewish Public Affairs Committee
Jewish Public Affairs Committee of California
Jewish Silicon Valley
NextGen California
Parents Television and Media Council
Progressive Zionists of California

OPPOSITION: (Verified 8/18/24)

California Chamber of Commerce
Chamber of Progress

Civil Justice Association of California
Computer and Communications Industry Association
Electronic Frontier Foundation
Netchoice
Technet

ARGUMENTS IN SUPPORT: NextGen California writes:

> AB 3172 (Lowenthal) utilizes the threat of financial liability to compel social media platforms to proactively safeguard youth users from potential harm. AB 3172 makes one change to California's existing negligence law, Civil Code, Section 1714, by increasing statutory damages to encourage proactive measures by social media companies. . . .
>
> California must intervene for our youth and hold social media companies accountable and financially responsible for negligent actions and practices.

ARGUMENTS IN OPPOSITION: Chamber of Progress writes:

> The "responsibility of ordinary care and skill to a child" is excessively vague, given the diverse range of opinions regarding appropriate content for children of varying ages. Faced with the risk of a deluge of litigation seeking high payments based on unclear standards, websites will be forced to strip any content or features that could be possibly considered inappropriate (or risk severe penalties), which is precisely the sort of "chilling" that the Supreme Court's vagueness doctrine is intended to prevent.

ASSEMBLY FLOOR: 65-0, 5/20/24
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Chen, Connolly, Davies, Dixon, Flora, Mike Fong, Friedman, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Kalra, Low, Lowenthal, Maienschein, McCarty, McKinnor, Muratsuchi, Ortega, Pacheco, Papan, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Rendon, Reyes, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas

NO VOTE RECORDED: Arambula, Cervantes, Megan Dahle, Essayli, Vince Fong, Gabriel, Gallagher, Jones-Sawyer, Lackey, Lee, Mathis, Stephanie Nguyen, Jim Patterson, Luz Rivas, Ta

Prepared by: Christian Kurpiewski / JUD. / (916) 651-4113
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****** END ******

SENATE RULES COMMITTEE AB 3211
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 3211
Author: Wicks (D)
Amended: 8/23/24 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 8-2, 6/18/24
AYES: Umberg, Allen, Ashby, Caballero, Durazo, Roth, Stern, Wahab
NOES: Wilk, Niello
NO VOTE RECORDED: Laird

SENATE GOVERNMENTAL ORG. COMMITTEE: 10-2, 6/25/24
AYES: Dodd, Alvarado-Gil, Archuleta, Ashby, Bradford, Glazer, Padilla, Roth, Rubio, Smallwood-Cuevas
NOES: Wilk, Seyarto
NO VOTE RECORDED: Jones, Nguyen, Ochoa Bogh, Portantino

SENATE APPROPRIATIONS COMMITTEE: 4-2, 8/15/24
AYES: Caballero, Ashby, Becker, Wahab
NOES: Jones, Seyarto
NO VOTE RECORDED: Bradford

ASSEMBLY FLOOR: 62-0, 5/22/24 - See last page for vote

SUBJECT: California Digital Content Provenance Standards

SOURCE: California Initiative for Technology & Democracy

DIGEST: This bill establishes the California Digital Content Provenance Standards Act, which requires a generative AI (GenAI) provider to, among other things, take certain actions to assist in the disclosure of provenance data. This bill requires an online platform, as defined, to, among other things, use labels to disclose provenance data found in synthetic content, as specified. This bill requires platforms to produce transparency reports. The bill requires recording device manufacturers to enable options for embedding provenance data into recordings.

Senate Floor Amendments of 8/22/24 substantially narrowed and restructured the bill to loosen the requirements being applied to developers and online platforms with respect to detecting and labeling the digital provenance of content, as provided.

Senate Floor Amendments of 8/23/24 provide an exception for providers to refrain from sharing reports with academic institutions, lower the administrative penalties, and rework several provisions.

ANALYSIS:

Existing law:

1) Defines "deepfake" as audio or visual content that has been generated or manipulated by artificial intelligence which would falsely appear to be authentic or truthful and which features depictions of people appearing to say or do things they did not say or do without their consent. (Gov't Code § 11547.5.)

2) Defines "digital content forgery" as the use of technologies, including artificial intelligence and machine learning techniques, to fabricate or manipulate audio, visual, or text content with the intent to mislead. (Gov't Code § 11547.5.)

3) Defines "digital content provenance" as the verifiable chronology of the original piece of digital content, such as an image, video, audio recording, or electronic document. (Gov't Code § 11547.5.)

This bill:

1) Defines the relevant terms.

2) Requires a GenAI provider whose GenAI system is capable of producing digital content that would falsely appear to a reasonable person to depict real-life persons, objects, places, entities, or events to apply provenance data, as specified, that is difficult to remove or disassociate. The GenAI provider is further required to make available to the public a provenance detection tool, as provided.

3) Requires a GenAI provider to conduct adversarial testing exercises following relevant guidelines established by the National Institute on Standards and

Technology (NIST) to assess the robustness of provenance data methods and whether the systems can be used to add false provenance data, as specified.

4) Requires newly manufactured recording devices sold, offered for sale, or distributed in California to offer users the option to apply difficult to remove provenance data to nonsynthetic content produced by that device.

5) Requires the recording devices to clearly inform users of the existence of the settings upon a user's first use of the recording function and to contain a clear indicator that provenance data is being applied.

6) Requires, if technically feasible, a recording device manufacturer to offer a software or firmware update enabling a user of a recording device manufactured before July 1, 2026, and purchased in California, to apply provenance data to the content created by the device and to decode the provenance data.

7) Requires a large online platform to use labels to disclose the provenance data of synthetic content distributed on its platform, as specified.

8) Provides that if content uploaded to or distributed on a large online platform by a user does not contain provenance data or if the content's provenance data cannot be interpreted or detected by the platform using technically feasible methods, a large online platform shall label the content as having unknown provenance.

9) Requires large online platforms to produce a transparency report that identifies moderation of deceptive synthetic content on their platform.

10) Authorizes CDT to assess an administrative penalty, as provided.

11) Provides an operative date of July 1, 2026.

12) Includes a severability clause.

Background

Certain forms of media – audio recordings, video recordings, and still images – can be powerful evidence of the truth. While such media have always been susceptible to some degree of manipulation, fakes were relatively easy to detect. The rapid advancement of AI technology, specifically the wide-scale introduction of GenAI

models, has made it drastically cheaper and easier to produce synthetic content, audio, images, text, and video recordings that are not real, but that are so realistic that they are virtually impossible to distinguish from authentic content, including so-called “deepfakes.”

Among other things, this bill works to ensure that providers of these GenAI systems are applying provenance data to synthetic content produced or significantly modified by their systems and equipping consumers with a tool to identify when specific content has been generated by their systems; places requirements on large online platforms to disclose the provenance data of content and to detect and label specified content; and requires recording device manufacturers to allow for the embedding of provenance data on nonsynthetic content produced by their devices. This bill is sponsored by the California Initiative for Technology & Democracy and supported by a wide variety of groups, including SEIU California and NextGen CA. This bill is opposed by Oakland Privacy and a coalition of industry groups, including Netchoice.

[For a more thorough analysis of the bill, please see the Senate Judiciary Committee analysis.]

Comment

According to the author:

> The primary purpose in introducing the bill is to establish a comprehensive regulatory framework to mitigate the harmful impacts of synthetic or "deep fake" content. Specifically, the bill aims to address the interrelated problems stemming from the increasing proliferation and sophistication of generative AI technologies that can create synthetic or "deepfake" content that is difficult to distinguish from human-generated, non-synthetic content . . . .

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No
According to the Senate Appropriations Committee:

Unknown, potentially significant costs (General Fund) to the California Department of Technology (CDT) in the tens of millions of dollars annually to implement the requirements of this bill. CDT indicates that this work is outside of the scope of CDT’s current technical team and would require additional administrative, technical, and research expertise. To build this new business capability, CDT would need 14 new General Fund positions, two temporary

program managers to establish the new team, and 12 ongoing staff to manage and resource this program.

CDT notes the importance of integrating artificial intelligence talent, including GenAI talent, in-house to ensure proper oversight in responsible use of GenAI across strategy, design, and technical functions within all our services and offerings. Foundational estimates include primarily full-time employees, with an additional request for funding to source and award contracts for external consultants necessary to provide GenAI expertise in the short-term within defined scopes of work to be determined by CDT. In parallel, a recruitment strategy specifically built to attract and retain GenAI talent is necessary to meet increased demand for GenAI expertise within and outside of the CDT. Accordingly, CDT would require the following resources:

- Year 1: 2 positions and $500,000, $600,000 External Consultants, and $500,000 GenAI Talent Practices; and,

- Year 2 and ongoing: 12 positions and $2,100,000, $600,000 External Consultants, and $400,000 GenAI Talent Practices.

CDT also notes that, as GenAI is still in its infancy in integrating with public sector services, the State will need to explore different methods of attracting talent while competing with private sector compensations. Private sector salaries for GenAI talent range from two to three times the level of the State's current maximum salary range. In addition to salaries, private sector total compensation can include bonuses, equity, and stock options that can further widen the gap between public and private sector total compensation packages, making it even more difficult for the State to be financially competitive for the same talent pool.

The fiscal estimate currently accounts for hiring talent with some fundamental skills in the GenAI space while leveraging GenAI Talent Practice funds to upskill and train the workforce in areas relevant to public service. If the State does not successfully recruit sufficient resources or provide adequate training to confidentially implement requirements within this bill as it is currently written, costs to hire similar headcounts and skillsets of external consultants are expected to be two to three times the cost of hiring talents at the State's current salary.

SUPPORT: (Verified 8/25/24)

California Initiative for Technology & Democracy (source)
Accountable Tech

Adobe
Bay Rising
California Voter Foundation
Catalyst California
Center for Countering Digital Hate
Check My Ads
Chinese Progressive Association
City and County of San Francisco, Board of Supervisors
Digimarc Corporation
Hmong Innovating Politics
Move (Mobilize, Organize, Vote, Empower) the Valley
NextGen California
OpenAI
Partnership for the Advancement of New Americans
SEIU California
Steg.AI
Techequity Action

OPPOSITION: (Verified 8/25/24)

California Chamber of Commerce
Computer and Communications Industry Association
Netchoice
Oakland Privacy
Technet

ARGUMENTS IN SUPPORT: The California Initiative for Technology & Democracy writes:

> The detrimental impact of these AI tools represents a monumental challenge for our society that will require multi-faceted solutions that recognize and respond to the dynamic nature of evolving technology. The EU's new AI Act leads the way, by requiring companies to develop content authentication and provenance mechanisms to tackle AI-generated disinformation.6 Domestic efforts have been weaker. Federal action has been limited to the Biden Administration's executive order on AI, which tasks the Department of Commerce to develop guidance for content authentication.7 Industry efforts and voluntary commitments have also cropped up to tackle this problem.8

California has the opportunity to lead the U.S. response to these threats. As the home of Silicon Valley and the heartland of AI innovation, California can and must play an important role in shaping the solution.

To that end, AB 3211 represents a phased-in solution to address this complex problem that complements existing standard-setting efforts. The bill has been developed with insights from EU regulators who have worked intimately on the AI Act and from federal policy experts who see, in the face of congressional inaction, California's power to drive nationwide change.

ARGUMENTS IN OPPOSITION: A coalition in opposition, including TechNet and NetChoice, write:

In its standards for large online platforms, AB 3211 should more clearly delineate between 1st party and 3rd party content. 1st party content would be images, videos, or audio that is generated using a large online platform's generative AI tools and is then posted or distributed on that platform. In this instance, a platform can actually control the creation of a content provenance or watermark into the content. As mentioned, many of our companies are already working to incorporate this type of technology to increase transparency around AI-generated content. It is currently technically infeasible to accurately and reliably detect content that is created using a different platform's AI tools. As noted above, considering the current ease with which current watermarks can be broken, a legal requirement and mandate for 3rd party content isn't appropriate.

ASSEMBLY FLOOR: 62-0, 5/22/24
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Juan Carrillo, Wendy Carrillo, Chen, Connolly, Davies, Dixon, Mike Fong, Gabriel, Garcia, Gipson, Grayson, Haney, Hart, 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, Rodriguez, Blanca Rubio, Santiago, Schiavo, Soria, Ting, Valencia, Villapudua, Waldron, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas

NO VOTE RECORDED: Calderon, Cervantes, Megan Dahle, Essayli, Flora, Vince Fong, Friedman, Gallagher, Holden, Hoover, Lackey, Mathis, Jim Patterson, Joe Patterson, Luz Rivas, Sanchez, Ta, Wallis

Prepared by: Christian Kurpiewski / JUD. / (916) 651-4113
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****** END ******

SENATE RULES COMMITTEE AB 3233
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 3233
Author: Addis (D), et al.
Amended: 8/23/24 in Senate
Vote: 21

SENATE NATURAL RES. & WATER COMMITTEE: 7-4, 6/17/24
AYES: Min, Allen, Eggman, Laird, Limón, Padilla, Stern
NOES: Seyarto, Dahle, Grove, Hurtado

SENATE LOCAL GOVERNMENT COMMITTEE: 4-2, 7/3/24
AYES: Durazo, Skinner, Wahab, Wiener
NOES: Seyarto, Dahle
NO VOTE RECORDED: Glazer

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/15/24
AYES: Caballero, Ashby, Becker, Bradford, Wahab
NOES: Jones, Seyarto

ASSEMBLY FLOOR: 43-14, 5/22/24 - See last page for vote

SUBJECT: Oil and gas: operations: restrictions: local authority

SOURCE: Center for Biological Diversity

DIGEST: This bill authorizes a local entity, by ordinance, to limit or prohibit oil and gas operations or development in its jurisdiction, as provided, notwithstanding any other law or any notice of intention, supplemental notice, well stimulation permit, or similar authorization issued by the Geologic Energy Management Division (CalGEM), as provided.

Senate Floor Amendments of 8/23/24 restore CalGEM's general purpose to existing law.

ANALYSIS:

Existing law:

1) Establishes the CalGEM in the Department of Conservation under the direction of the State Oil and Gas Supervisor (supervisor), who is required to supervise the drilling, operation, maintenance, and abandonment of oil and gas wells. (Public Resources Code (PRC) §§ 3000 *et seq*.)
2) Requires the supervisor to 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. (PRC §3106)
3) Requires CalGEM to develop and implement an education and outreach program to provide training to local governmental entities on materials collected and maintained by CalGEM related to oil and gas operations. (PRC §3115)
4) Requires the operator of any well, before commencing the work of drilling the well, re-drilling or deepening the well, plugging the well, or for any alterations of the well casing, to file with the supervisor or the district deputy a written notice of intention (NOI) to commence drilling, as provided. (PRC §3203)
5) Requires the owner of any well to file a monthly statement with the supervisor that provides certain information relating to the well, including the source, volume, treatment, and disposition of water produced in oil and gas activities. (PRC §3227)
6) Authorizes a city or county to request a list of idle wells in its jurisdiction from the supervisor. Authorizes a city or county to request a determination from the supervisor on whether a well should be plugged and abandoned, and requires the supervisor to make that determination when requested, as provided. (PRC §3206.5)
7) Authorizes a county or city to make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws. (Article XI, §7 of the California Constitution)

This bill authorizes a local entity, by ordinance, to limit or prohibit oil and gas operations or development in its jurisdiction, as provided, notwithstanding any other law or any notice of intention, supplemental notice, well stimulation permit, or similar authorization issued by the supervisor or district deputy, as provided.

Specifically, this bill:

1) Authorizes, notwithstanding any other law, and notwithstanding any NOI, supplemental notice, well stimulation permit, or similar authorization issued by the supervisor or district deputy, a local entity to, by ordinance, prohibit oil and gas operations in its jurisdiction or impose regulations, limits, or prohibitions on oil and gas development that are more protective of public health, the climate, or the environment than those prescribed by a state law, regulation, or order.

2) Authorizes these limitations or prohibitions to include, but not be limited to, limitations or prohibitions related to the methods of oil and gas operations and the locations of oil and gas operations.

3) Requires, if a local entity limits or prohibits oil and gas operations of an owner or operator, the owner or operator to be responsible for plugging and abandoning its wells, decommissioning attendant production facilities, and related measures, pursuant to the rules of the oil and gas statutory division.

4) Defines, for purposes of this bill, "local entity" as a city, county, or city and county.

5) Provides that the provisions of this bill are severable, as provided.

Background

California is a major oil and gas producing state. According to the U.S. Energy Information Administration, the state was 7th and 15th for oil and marketed natural gas production, respectively, among the 50 states. Oil exploration and production in California started in the 19th century. Production of oil was about 123 million barrels in 2023, and continues to decline from the 1985 peak.

In 2015, after Monterey County Supervisors rejected a fracking moratorium in 2015, local residents drafted an initiative to ban fracking and limit certain oil operations – Measure Z. Measure Z sought to do several things: ban fracking, acidizing, and other well stimulation treatments; ban *new* wastewater injection wells and wastewater ponds; phase out *existing* wastewater injection wells and ponds; and ban *new* oil and gas wells within the county. The initiative did not include Monterey County's approximately 1,500 *existing* oil and gas wells. Measure Z won with 56% of the vote on November 8, 2016.

On December 14, 2016, Chevron filed a petition for writ of mandate and complaint, alleging, among other things, that state and federal law preempt Measure Z and Measure Z would result in an unconstitutional taking of their property.

On January 25, 2018, the Superior Court filed its statement of decision. *(31:AA.7545–7593.)* In relevant part, the Superior Court concluded that certain prohibitions on oil and gas activities that Measure Z sought to enact were preempted by state and federal law.

In particular, the Superior Court found that Measure Z was contrary to the express state policy set forth in Public Resources Code (PRC) Section 3106, which mandates that the supervisor authorize the owners or operators of the wells to utilize all methods and practices known to the oil and gas industry for the purpose of increasing the ultimate recovery of underground hydrocarbons.

The California Supreme Court granted review to decide whether PRC Section 3106 preempts Measure Z and concluded that it does because Measure Z is contradictory to, and therefore conflicts with, PRC Section 3106 as Measure Z went beyond a zoning ordinance and sought to prohibit certain oil and gas operations under the supervisor's authority.

[Additional information may be found in the Senate Natural Resources and Water and Senate Local Government Committees' bill analyses.]

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

According to the Senate Appropriations Committee to a previous version:

Unknown but potentially significant costs, likely in the hundreds of thousands to low millions of dollars (General Fund or special fund) for the Geologic Energy Management Division (CalGEM) for CalGEM coordination with local agencies. Antipated CalGEM workload would include field staff who would require resources to understand and track each local ordinance and its requirements as well as legal staff who may need to determine if a local ordinance conflicts or overlaps with CalGEM's existing programs, regulations, and permits. Any coordination requirement by a local jurisdiction for implementation and enforcement may also incur significant costs. If a local jurisdiction required improvements or changes to WellSTAR, CalGEM's well tracking and reporting system, such changes could potentially cost millions of dollars.

SUPPORT: (Verified 8/14/24)

Center for Biological Diversity (source)
1000 Grandmothers for Future Generations
350 Bay Area Action
350 Conejo / San Fernando Valley
350 Humboldt
350 Petaluma

350 Sacramento
350 Santa Barbara
Acterra: Action for a Healthy Planet
Asian Pacific Environmental Network
Azul
Bay Area-System Change not Climate Change
Bicycling Monterey
Black Women for Wellness Action Project
California Climate Voters
California Democratic Party
California Environmental Justice Alliance (CEJA) Actoin
California Environmental Voters
California Green New Deal Coalition
California Nurses Association/National Nurses United
California Nurses for Environmental Health and Justice
California State Association of Counties
California Youth vs. Big Oil
Californians for Disability Rights, Inc.
Center for Community Action and Environmental Justice
Center for Food Safety
Center on Race, Poverty & the Environment
Central California Environmental Justice Network
Central Coast Alliance United for a Sustainable Economy
Central Coast Environmental Voters
Central Valley Air Quality Coalition
Central Valley Partnership
CERBAT
CFT – A Union of Educators & Classified Professionals, AFL-CIO
City of Los Angeles
CleanEarth4Kids.org
Climate Action California
Climate Breakthrough
Climate Brunch
Climate First: Replacing Oil & Gas
Climate Hawks Vote
Climate Health Now
Coalition for Clean Air
Communities for a Better Environment
Communities for Sustainable Monterey County
Community Environmental Council
Consumer Watchdog
Corporate Ethics International
County of Contra Costa
County of Los Angeles
County of Santa Cruz
Earthjustice
Earthworks
East Yard Communities for Environmental Justice
ECO Team
EcoEquity
Ecology Center
El Pueblo Para el Aire y Agua Limpia de Kettleman City
Elders Climate Action, Northern California Chapter
Elders Climate Action, Southern California Chapter
Elected Officials to Protect America – Code Blue
Endangered Habitats League
Environmental Defense Center
Environmental Protection Information Center

Environmental Working Group
Esperanza Community Housing
Extinction Rebellion San Francisco Bay Area
Faith in the Valley
Food & Water Watch
Food Empowerment Project
Fossil Free California
FracTracker Alliance
Fresnans against Fracking
Fridays for Future Fresno
Fridays for Future Sacramento
Friends of the Earth
Glendale Environmental Coalition
Good Neighbor Steering Committee of Benicia
Greenaction for Health and Environmental Justice
Greenpeace USA
Harvey Milk LGBTQ Democratic Club
Holman United Methodist Church
Idle No More SF Bay
Indivisible Marin
Indivisible San Francisco
Indivisible San Jose
Indivisible South Bay LA
Junior Philanthropists Association
La Jolla Environmental Action
Local Clean Energy Alliance
Los Angeles Climate Reality Project
Los Padres ForestWatch
Manhattan Beach Huddle
Methane Action
MLK Coalition of Greater Los Angeles
Mothers Out Front
Natural Resources Defense Council
NextGen California
Oil and Gas Action Network
Oil Change International
Pacific Environment
Physicians for Social Responsibility, Los Angeles
Physicians for Social Responsibility, Sacramento
Physicians for Social Responsibility, San Francisco Bay
Planning and Conservation League
Protect Monterey County
Protect Playa Now!
Queers X Climate
Redeemer Community Partnership
Rising Communities
RootsAction.org
San Francisco Baykeeper
San Joaquin Valley Democratic Club
San Diego 350
Santa Barbara Standing Rock Coalition
Santa Cruz Climate Action Network
Sequoia ForestKeeper
Sierra Club California
Society of Fearless Grandmothers, Santa Barbara
Solano County Democratic Central Committee
Stand Together Against Neighborhood Drilling (STAND – LA)
Stand.earth
Stop OAK Expansion Coalition
Sunflower Alliance
Sunrise Movement LA
Sunrise Movement Bay Area
Sunrise Santa Barbara
Sustainable Mill Valley
The Climate Alliance of Santa Cruz County

The Climate Center
The Climate Reality Project, Bay Area Chapter
The Climate Reality Project: California Coalition
Reality Project, Riverside County Chapter
The Climate Reality Project, San Fernando Valley Chapter
The Climate Reality Project, Silicon Valley
The Honorable Hydee Feldstein Soto, City Attorney, City of Los Angeles
The Phoenix Group
The UNIDOS Network
The Climate Reality Project, Monterey Bay
The Climate Reality Project, Orange County Chapter
The Climate
Third Act Sacramento
Ventura County Democratic Party
Voting 4 Climate & Health
West Berkeley Alliance for Clean Air and Safe Jobs
Women's Earth and Climate Action Network
Youth Climate Strike Los Angeles
Youth For Earth
Youth v. Oil

OPPOSITION: (Verified 8/14/24)

California Department of Finance
California Independent Petroleum Association
California State Council of Laborers
California-Nevada Conference of Operating Engineers
County of Madera
International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers, and Helpers
International Union of Painters and Allied Trades, District Council 16
International Union of Painters and Allied Trades, District Council 36
State Building and Construction Trades Council of California
Valley Industry and Commerce Association
Western States Petroleum Association

ARGUMENTS IN SUPPORT: According to the author, "Pollution from oil and gas production causes grave harm to our health, climate, and environment. For more than a century, cities and counties have protected their residents' health and safety by deciding whether, where, and under what conditions to allow oil and gas projects to operate. As California transitions away from its dependency on fossil fuels, more cities and counties have introduced ordinances to ban oil and gas operations. Assembly Bill 3233 uplifts the voices of our local communities by codifying their right to enact these policies."

ARGUMENTS IN OPPOSITION: Writing in opposition, the Western States Petroleum Association notes that "By allowing local governments to adopt

ordinances that may prohibit or significantly restrict an operator's right to operate its existing oil and gas production wells or other facilities, AB 3233 has the potential to expose these local governments to significant liability. Operators hold valuable property rights in their existing oil and gas production operations. A local ordinance that results in a facial or de facto prohibition may result in an unconstitutional violation of the Takings Clause under the federal and state constitutions unless the local government pays just compensation for the taking of these property rights from the operator."

Western States Petroleum Association also notes the state's dependence on sources of foreign oil to meet the state's energy needs.

ASSEMBLY FLOOR: 43-14, 5/22/24
AYES: Addis, Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Wendy Carrillo, Connolly, Mike Fong, Gabriel, Garcia, Grayson, Haney, Hart, Irwin, Jackson, Jones-Sawyer, Kalra, Lee, Low, Lowenthal, Maienschein, McCarty, McKinnor, Muratsuchi, Ortega, Papan, Pellerin, Petrie-Norris, Rendon, Reyes, Santiago, Schiavo, Ting, Ward, Weber, Wicks, Wood, Zbur, Robert Rivas
NOES: Alanis, Chen, Davies, Dixon, Flora, Vince Fong, Gallagher, Hoover, Lackey, Jim Patterson, Sanchez, Ta, Waldron, Wallis
NO VOTE RECORDED: Alvarez, Bains, Calderon, Juan Carrillo, Cervantes, Megan Dahle, Essayli, Friedman, Gipson, Holden, Mathis, Stephanie Nguyen, Pacheco, Joe Patterson, Quirk-Silva, Ramos, Luz Rivas, Rodriguez, Blanca Rubio, Soria, Valencia, Villapudua, Wilson

Prepared by: Katharine Moore / N.R. & W. / (916) 651-4116
8/27/24 20:50:07

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

SENATE RULES COMMITTEE AB 3241
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 3241
Author: Pacheco (D), et al.
Amended: 8/15/24 in Senate
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 3-0, 7/2/24
AYES: Wahab, Seyarto, Wiener
NO VOTE RECORDED: Bradford, Skinner

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/15/24
AYES: Caballero, Jones, Ashby, Becker, Bradford, Seyarto, Wahab

ASSEMBLY FLOOR: 66-0, 5/23/24 - See last page for vote

SUBJECT: Law enforcement: police canines

SOURCE: California Police Chiefs Association

DIGEST: This bill requires the Commission on Peace Officer Standards and Training (POST), by July 1, 2026, to study and issue recommendations to the Legislature on the use of canines by law enforcement, and requires each law enforcement agency with a canine unit to annually publish a report regarding the use of canines on its internet website, as specified.

ANALYSIS:

Existing law:

1) Declares the intent of the Legislature that the authority to use physical force, conferred on peace officers by existing law, is a serious responsibility that shall be exercised judiciously and with respect for human rights and dignity and for the sanctity of every human life, and that every person has a right to be free from excessive use of force by officers acting under color of law. (Pen. Code, §835a, subd. (a)(1).)

2) Authorizes a peace officer who has reasonable cause to believe that a person to be arrested has committed a public offense to use objectively reasonable force to effect the arrest, to prevent escape, or to overcome resistance. (Pen. Code, § 835a, subd. (b).)

3) Provides that any person owning or having custody or control of a dog trained to fight, attack, or kill is guilty of a felony or a misdemeanor, as specified, except for a veterinarian, on-duty animal control officer while in the performance of his or her duties, or to a peace officer if that officer is assigned to a canine unit. (Pen. Code, § 399.5.)

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

5) Provides that POST has, among others, the power to develop and implement programs to increase the effectiveness of law enforcement and, when those programs involve training and education courses, to cooperate with and secure the cooperation of state-level peace officers, agencies, and bodies having jurisdiction over systems of public higher education in continuing the development of college-level training and education programs. (Pen. Code, § 13500.3, subd. (e).)

6) Requires POST to submit annually a report to the Legislature on the overall effectiveness of any additional funding for improving peace officer training, including the number of peace officers trained by law enforcement agency, by course, and by how the training was delivered, as well as the training provided and the descriptions of the training. (Pen. Code, § 13500.5, subd. (a) & (b).)

7) Requires POST to develop and deliver training courses for peace officers on a wide array of topics, including, the use of tear gas, SWAT operations, elder abuse, persons with disabilities, behavioral health, technology crimes, sexual assault, first aid, missing persons, gang and drug enforcement, use of force and human trafficking, among others. (Pen. Code §§13514 – 13519.15.)

8) Requires POST to implement a course or courses of instruction for the training of law enforcement officers in the use of force and to develop uniform,

minimum guidelines for adoption by law enforcement agencies regarding use of force, as specified. (Pen. Code, § 13519.10.)

9) Requires POST to post on its internet website all current standards, policies, practices, operating procedures and education and training materials, as specified. (Pen. Code, § 13650.)

10) Requires each law enforcement agency to provide to the Department of Justice, on a monthly basis, a report of all instances when a peace officer that is employed by the agency is involved in shootings and use of force incidents, as specified. (Gov. Code, § 12525.2(a).)

This bill:

1) Requires each law enforcement agency with a canine unit to annually publish on its internet website a report of all of the following:

   a) The number of canine units in the agency.

   b) The number of deployments, although instances in which the canine was deployed for training or demonstration may be reported as a separate category.

   c) The number of times the canine exited the police car inadvertently or without being removed from the police car by the handler.

   d) The number of interventions.

   e) The number of incidents of use of force involving a canine

2) Provides that only information known to the agency at the time of the report shall be included.

3) Includes definitions for various terms used in the reporting requirement above.

4) Requires POST, on or before July 1, 2026, to study and issue recommendations to the Legislature on the use of canines by law enforcement.

5) Requires POST to consider all of the following in its recommendations:

   a) The use of canines by law enforcement personnel is of important concern to the community and law enforcement and that law enforcement should safeguard the life, dignity, and liberty of all persons, without prejudice to anyone.

b) Officers shall carry out duties, including use of force with respect to canines, in a manner that is fair and unbiased.

c) Instances of appropriate patrol use with a canine, including standards for obedience, search, apprehension, and handler protection.

d) Instances of appropriate use with a canine for detection, including standards for control, alert, and odor detection.

e) Factors for evaluating and reviewing all canine use of force incidents.

f) Other considerations that will keep the public, the handler, and the canine safe, including how to provide a warning to a suspect within a deployment area upon the potential release of a canine.

Comments

According to the Author, "While case law, training and policy guidelines, and general legal principles apply to the development and deployment of law enforcement K9 programs, there are not statewide standards to ensure consistency across a myriad of different programs. AB 3241 resolves this issue by setting clear and comprehensive statewide standards specific to law enforcement K9 programs."

California law enforcement agencies view the use of police canines as indispensable to protecting the both the public and law enforcement personnel in the discharge of their duties. According to the Los Angeles County Sheriff's Department:

> "The prompt and proper utilization of a trained canine team has proven to be a valuable use of a unique resource in law enforcement. When properly used, a canine team greatly increases the degree of safety to citizens within a contained search area, enhances individual officer safety, significantly increases the likelihood of suspect apprehension, and dramatically reduces the amount of time necessary to conduct a search."

In 1992, POST approved a set of voluntary guidelines designed to assist agencies with minimum training and performance standards for two primary canine uses: patrol and detection. In January 2014, POST updated these guidelines keeping in mind the more specialized canine team functions that had developed in the two decades since initial publication, and noted that the guidelines "are sufficiently general to accommodate differing agencies' policies regarding operational deployment of K-9 teams." The "patrol" guidelines set forth minimum

performance standards for four competencies: obedience, search, apprehension, and handler protection. Regarding "apprehension," the guidelines provide:

> Under the direction of the handler and while off leash, the K-9 will pursue and apprehend a person acting as a "suspect" (agitator/decoy). The K-9 team will demonstrate a pursuit and call off prior to apprehension. On command from the handler, the K-9 will pursue and apprehend the agitator/decoy. From a reasonable distance and on verbal command only, the K-9 will cease the apprehension.

As these guidelines are limited and provide only minimum standards, law enforcement agencies across the state have developed their own policies and practices related to canines. These policies often include standards and definitions that, while not inconsistent, are certainly not uniform, and may be amended completely at the discretion of the agency.

According to the Author, more statewide standardization of police canine programs is necessary, and would "build trust and accountability between agencies and the communities they serve." Toward this end, this bill requires the Commission on Peace Officer Standards and Training to study and issue recommendations to the Legislature on the use of canines by law enforcement. Additionally, this bill includes data reporting requirements that resemble other recent legislative efforts to increase reporting by local agencies to the Department of Justice, including AB 953 (Weber, Ch. 466, Stats. of 2015) regarding police stops and the aforementioned AB 71. Specifically, this bill requires each law enforcement agency with a canine unit to annually publish on its internet website the following several discrete data points.

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

According to the Senate Appropriations Committee:

Unknown, potentially significant one-time state costs (General Fund) to POST to study and issue recommendations.

SUPPORT: (Verified 8/14/24)

California Police Chiefs Association (source)
Arcadia Peace Officers Association
Association of Orange County Deputy Sheriffs
Burbank Peace Officers Association
California Association of Highway Patrolmen
California Coalition of School Safety Professionals

California Fraternal Order of Police
California Narcotic Officers' Association
California Reserve Peace Officers Association
California State Sheriffs' Association
California Statewide Law Enforcement Association
City of Beverly Hills
City of Norwalk
Claremont Peace Officers Association
Corona Peace Officers Association
Culver City Peace Officers Association
Dolores Huerta Foundation
Fullerton Peace Officers Association
Long Beach Police Officers Association
Los Angeles County Sheriff's Department
Los Angeles Schools Police Association
Los Angeles School Police Management Assn
Monterey County Deputy Sheriffs Association
Murrieta Peace Officers Association
Newport Beach Police Association
Novato Peace Officers Association
Palos Verdes Peace Officers Association
Peace Officers Research Association of California (PORAC)
Placer County Deputy Sheriffs Association
Pomona Peace Officers Association
Riverside County Sheriffs' Association
Riverside Peace Officers Association;
Sacramento County Deputy Sheriffs' Association
San Bernardino County Sheriff's Employees' Benefit Association
Santa Ana Peace Officers Association
Upland Peace Officers Association

OPPOSITION: (Verified 8/14/24)

ACLU California Action
All of Us or None Los Angeles
Asian Law Alliance
California Public Defenders Association
Californians United for a Responsible Budget
Communities United for Restorative Youth Justice
Initiate Justice
Legal Services for Prisoner With Children

National Police Accountability Project
Orange County Justice Initiative
San Francisco Public Defender

ASSEMBLY FLOOR: 66-0, 5/23/24
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Calderon, Juan Carrillo, Wendy Carrillo, Chen, Connolly, Davies, Dixon, Flora, Mike Fong, Vince Fong, Friedman, Gabriel, Garcia, Gipson, Grayson, Haney, Hart, Hoover, Irwin, Jackson, Lackey, Low, Lowenthal, Maienschein, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Rendon, Reyes, Rodriguez, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Wicks, Wilson, Wood, Zbur, Robert Rivas
NO VOTE RECORDED: Bonta, Bryan, Cervantes, Megan Dahle, Essayli, Gallagher, Holden, Jones-Sawyer, Kalra, Lee, Mathis, Luz Rivas, Blanca Rubio, Weber

Prepared by: Alex Barnett / PUB. S. /
8/19/24 17:46:33

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

SENATE RULES COMMITTEE AB 3261
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 3261
Author: Mike Fong (D), et al.
Amended: 8/28/24 in Senate
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 15-0, 6/11/24
AYES: Dodd, Wilk, Alvarado-Gil, Archuleta, Ashby, Bradford, Glazer, Jones, Nguyen, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto
NO VOTE RECORDED: Smallwood-Cuevas

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 71-0, 5/16/24 (Consent) - See last page for vote

SUBJECT: Horse racing: out-of-state thoroughbred races

SOURCE: Author

DIGEST: This bill raises the existing limit on the importation of out-of-state thoroughbred races, for the purposes of accepting wagers on those races, from 50 to 75 out-of-state races-per-day; and, prohibits, when the total number of those races imported is between 51 and 75 races-per-day, a thoroughbred association or fair from accepting wagers on those races commencing after 5:00 p.m. without the consent of the harness or quarter horse racing association that is then conducting a live race meeting in the County of Orange or the County of Sacramento.

Senate Floor Amendments of 8/28/24 address chaptering conflicts with AB 1768 (Committee on Governmental Organization, 2023) and AB 1946 (Alanis, 2024).

ANALYSIS:

Existing law:

1) Provides that Article IV, Section 19(b) of the Constitution of the State of California authorizes the Legislature 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) Requires any thoroughbred association or fair accepting wagers on the above-described out-of-state races to conduct the wagering in accordance with certain conditions.

5) Prohibits a thoroughbred association or fair from accepting wagers on the above-described out-of-state races commencing after 7 p.m., Pacific Standard Time (PST), without the consent of the harness or quarter horse racing association that is then conducting a live race meeting in the County of Orange or the County of Sacramento.

This bill:

1) Raises the limit on the importation of out-of-state thoroughbred races from 50 to 75 races-per-day on days, as specified.

2) Prohibits, when the total number of thoroughbred races imported by a thoroughbred association or fair on a statewide basis is between 51 and 75 races-per-day, a thoroughbred association or fair from accepting wagers on the above-described out-of-state races commencing after 5:00 p.m., PST, without the consent of the harness and quarter horse racing association that is then conducting a live racing meeting in the County of Orange or the County of Sacramento.

Background

Author's Statement. According to the author's statement, "the 50 per-day cap on the number of thoroughbred races allowed to be imported by associations or fairs

when live thoroughbred or fair racing is being conducted in the state disadvantages California's associations and fairs. Adjusting the limitation will put associations and fairs on a better competitive footing with the advanced deposit wagering businesses and give customers greater choices."

Satellite Wagering Simulcasting. 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 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 2024 edition of the Kentucky Derby set a record for commingled wagering and was up 10% over the record betting last year. Total betting, including the multi-race bets ending in the Derby, was $198.3 million, and was easily a record for any race ever run in North America. For the entire 14-race card on Saturday, May 4th, total betting was a record $306.9 million and a total of 155 horses ran on this year's card, while 143 horses ran in the 14 races last year. Attendance at the racetrack was 156,710, the highest number since 2018. The declining attendance at live horse racing events in California has prompted racetracks to rely on revenues from in-state and out-of-state satellite wagering and account wagering.

Distribution of Audiovisual Signals and Wagering. Thoroughbred racing associations and fairs in California can distribute the audiovisual signal and accept wagers on the results of out-of-state thoroughbred races during their own race meetings. This is allowed even on days when no live races are being held at their venues. There is a limit on the number of out-of-state races that can be imported into California for betting purposes. On days when there is live thoroughbred or fair racing happening in California, the total number of races imported from out-of-state must not exceed 50 races-per-day.

However, there are exemptions to this limit. Races that are part of specific major events like the Kentucky Derby, Breeder's Cup, and other specified races can be imported without falling under the 50 race-per-day limit. Additional exceptions are made for importing races into certain geographical zones of California when no local live racing is occurring. Any wagering on these out-of-state races must comply with specific provisions of California's Horse Racing Law that govern how betting should be conducted. Wagers on out-of-state races are not allowed after 7 p.m. PST unless there is consent from the local harness or quarter horse racing associations conducting live racing in either Orange or Sacramento County.

Without the 50-race limitation, thoroughbred associations and fairs could import more races for wagering purposes (or if not all, a significantly larger number of races than are currently imported), giving each wagering customer in the state greater choices in the races they would like to wager on. The 50-day limit forces Thoroughbred associations and fairs to choose just 50 races, preventing customers' ability to wager on a race or races that did not make the selected list of 50.

It should be noted that there is no equivalent restriction on CHRB-licensed ADW operators who accept wagers from in-state residents. These licensed businesses normally provide all out-of-state Thoroughbred races to their customers.

Horse Racing in California. The horse racing industry in California is grappling with a multifaceted crisis that threatens its long-term viability. The industry's stability is undermined by competition from horse racing, alternative forms of gaming, and the aftermath of negative public reaction to a spate of horse deaths in 2019. Declining attendance at race events exacerbates the situation, as does the lure of higher returns from real estate development compared to the revenue generated from racing operations. In 2023, it was announced that Golden Gate Fields in the San Francisco Bay Area would be closing permanently at the end of their 2024 meet.

This economic strain has led to deficits across nearly all industry revenue streams. Traditional financial models, including takeout rates and distribution formulas, are no longer sufficient to sustain ongoing operations. The decline in the profitability of racing operations has forced track owners to seek higher returns on their investments, often considering the sale or redevelopment of racetrack properties for more lucrative uses.

As a result, the industry faces unprecedented instability and capital flight. This instability jeopardizes thousands of jobs directly linked to horse racing, including those on breeding farms and other associated businesses. The closure of key racetracks, including Golden Gate Fields, highlights the precarious state of the industry. Also at risk is a substantial amount of local and state revenue generated both directly and indirectly by the industry.

This bill raises the limit on the total number of out-of-state races that can be imported into California for the purposes of accepting wagers on those out-of-state races from 50 to 75. Additionally, this bill stipulates that for any race that is imported over the current 50 race-per-day threshold, and is imported after 5:00 p.m., the thoroughbred association or fair must obtain the consent of both of the existing harness and quarter horse racing associations in Orange and Sacramento County, if those harness or quarter horse racing associations are conducting live racing on that date.

This bill includes language to avoid chaptering out conflicts with AB 1768 (Committee on Governmental Organization, 2023) and AB 1946 (Alanis, 2024).

Related/Prior Legislation

AB 1946 (Alanis, 2024) adds the Whitney Stakes to the group of out-of-state horseraces that are exempt from the 50 races-per-day limit on imported races into California. (Pending at Engrossing and Enrolling)

AB 1768 (Committee on Governmental Organization, 2023) adds the Pegasus World Cup to the group of out-of-state horseraces that are exempt from the 50 races-per-day limit on imported races into California. (Pending at Engrossing and Enrolling

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.: Yes Local: No

SUPPORT: (Verified 8/28/24)

Los Angeles Turf Club

OPPOSITION: (Verified 8/28/24)

None received

ARGUMENTS IN SUPPORT: In support of this bill, the Los Angeles Turf Club writes, "[e]xisting law generally prohibits the total number of Thoroughbred races imported by associations or fairs on a statewide basis from exceeding 50 per day. The 50-race limitation requires the associations and fairs to choose just 50 out-of-state races to import into California for wagering by our customers. This inevitably angers some customers who wanted to wager on a race or races that didn't make the selected list of 50."

ASSEMBLY FLOOR: 71-0, 5/16/24
AYES: Aguiar-Curry, Alanis, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Chen, Connolly, Davies, Dixon, Essayli, Mike Fong, Friedman, Gabriel, Gallagher, Garcia, Grayson, Haney, Hart, Holden, Hoover, 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, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas
NO VOTE RECORDED: Addis, Alvarez, Cervantes, Megan Dahle, Flora, Vince Fong, Gipson, Irwin, Mathis

Prepared by: Brian Duke / G.O. / (916) 651-1530
8/29/24 19:43:39

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

Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 3264
Author: Petrie-Norris (D) and Robert Rivas (D)
Amended: 8/28/24 in Senate
Vote: 21

PRIOR VOTES NOT RELEVANT

SENATE ENERGY, U. & C. COMMITTEE: 17-0, 8/30/24
AYES: Bradford, Dahle, Ashby, Becker, Caballero, Dodd, Durazo, Eggman, Gonzalez, Limón, Min, Newman, Rubio, Seyarto, Skinner, Stern, Wilk
NO VOTE RECORDED: Grove

SUBJECT: Energy: cost framework: residential rates: demand-side management programs report: electrical transmission grid study

SOURCE: Author

DIGEST: : This bill includes a suite of proposals to help address energy costs. These include: requiring the California Public Utilities Commission (CPUC) to develop a framework to address energy costs from electricity, natural gas, gasoline, and propane; and requiring the CPUC to submit a study to the Legislature on options to reduce costs on ratepayers of expanding the electrical transmission system.

ANALYSIS:

Existing law:

1) Establishes and vests the CPUC with regulatory jurisdiction over public utilities, including electrical corporations. (Article XII of the California Constitution)

2) Establishes the State Energy Resources Conservation and Development Commission (California Energy Commission (CEC)) and prescribes its authorities, duties, and responsibilities pertaining to energy matters. (Public Resources Code §25200 *et seq.*)

3) Establishes the California Independent System Operator (CAISO) as a nonprofit public benefit corporation and requires the CAISO to ensure efficient use and reliable operation of the electrical transmission grid consistent with achieving planning and operating reserve criteria no less stringent than those established by the Western Electricity Coordinating Council and the North American Electric Reliability Corporation. (Public Utilities Code §345.5)

4) Requires all charges demanded or received by a public utility for a product or commodity furnished, or to be furnished, or any service rendered, or to be rendered, to be just and reasonable. (Public Utilities Code §451)

5) Requires the CPUC to allocate certain funds collected from ratepayers for various purposes, including cost-effective energy efficiency and conservation activities. (Public Utilities Code § 381, among others)

6) Requires the CPUC to prepare a written report on the costs of programs and activities conducted by each electrical corporation and gas corporation with more than 1,000,000 and 500,000 retail customers in California, respectively. Requires the report to be completed on an annual basis before April 1st of each year, and shall identify all of the following:

   a) Each program mandated by statute and its annual cost to ratepayers;

   b) Each program mandated by the CPUC and its annual cost to ratepayers;

   c) Energy purchase contract costs and bond-related costs incurred pursuant to Division 27 (commencing with Section 80000) of the Water Code; and

   d) All other aggregated categories of costs currently recovered in retail rates as determined by the CPUC. (Public Utilities Code §913)

7) Requires the CPUC, by May 1st of each year, to prepare and submit a written report with recommendations for actions that can be undertaken during the succeeding 12 months to limit utility cost and rate increases, known as the *SB 695 Cost Report*. (Public Utilities Code §913.1)

8) Requires the CPUC, before July 1, 2022, and every three years thereafter, to submit a report to the Legislature on the energy efficiency and conservation programs it oversees. Requires the report to include information regarding authorized utility budgets and expenditures and projected and actual energy savings over the program cycle. (Public Utilities Code §913.5)

9) Establishes the Federal Energy Regulatory Commission (FERC) has exclusive jurisdiction over the transmission of electricity in interstate commerce, over the sale of electricity at wholesale in interstate commerce, and over all facilities for the transmission or sale of electricity in interstate commerce. (Federal Power Act §§§201, 205, 206 (16 USC 824, 824d, 824e))

This bill:

1) Makes several findings and declarations concerning the burden on residential households in California regarding energy costs.

2) Requires the CPUC, in consultation with the CEC, by December 31, 2026, to develop a framework for assessing, tracking, and analyzing total annual energy costs paid by residential households in California. Requires specified reporting and elements, including:

   a) total annual energy costs for residential household energy sources, not limited to, electricity, natural gas, propane, gasoline, and diesel;

   b) a requirement for scenarios that may lead to specified reductions in total annual energy costs paid by residential households in 2035 relative to 2024; and

   c) an assessment of the actions from the scenarios and their effects on public health, safety, energy system reliability, and achieving the state's clean energy and climate goals.

3) Authorizes the CPUC to use the framework for purposes of evaluating any request by an electrical corporation and gas corporation to track new spending eligible for recovery or to adjust a revenue requirement.

4) Requires the CPUC, by December 31, 2026, to submit a report to the Legislature containing the framework and the information from its various elements.

5) Requires large electrical corporations, as defined, and large gas corporations, as defined, by January 1, 2026, and each year thereafter, to publish on their internet websites and provide to the CPUC a visual representation of certain cost categories included in residential electric or gas rates for the succeeding calendar year.

6) Makes changes to a required report by the CPUC to the Legislature on energy efficiency and conservation (Public Utilities Code §913.5). Specifically, recasts the report to include all demand-side management programs the CPUC oversees or that are paid for by ratepayers of community choice aggregators (CCAs), electrical corporations, or gas corporations. Revises the information required to be included in the report, including evaluations for each program with specified criteria concerning bill savings, impacts, and others.

7) Requires the CPUC, in consultation with the CEC, the California Infrastructure and Economic Development Bank (I-Bank), and CAISO, by July 1, 2025, to submit to the Governor and the Legislature a study identifying proposals to reduce the cost to ratepayers of expanding the state's electrical transmission grid as necessary to achieve the state's goals, to meet the state's requirements, and to reduce the emissions of greenhouse gases (GHG), as specified in law, regulation, or executive order.

Background

1) *Energy utility costs rising.* Californians generally enjoyed lower energy bills when compared to the rest of the country, largely due to milder weather and investments in energy efficiency, even as electric rates have been higher than many other states. However, in more recent years, these trends have been changing as California's higher energy rates are also resulting in higher energy utility bills, both electricity and natural gas. As such, there are growing concerns about the affordability of utility bills on household budgets and commercial and industrial entities' balance sheets. Many Californians have also struggled to overcome economic challenges, including impacts from the COVID-19 pandemic. Low-income and fixed-income residents have fallen behind on paying their bills, including the utility debt accumulated over the time of the pandemic. The Legislature and Governor have helped alleviate these concerns by approving over $2 billion in funding to address energy utility bill arrearages and another $1 billion to address water utility bill arrearages. Nonetheless, the growing costs for goods and services due to inflation and supply shortages is also affecting the cost of utility bills and the ability for

Californians to manage their household budgets. Utility bill affordability has been a topic of two hearings by the Senate Committee on Energy, Utilities and Communications within the past two years, and continues to be an area of concern.

2) *Cost drivers for electricity utility bills.* A number of drivers are increasing costs of electricity utility bills. According to the CPUC's 2022 annual SB 695 Cost Report, since 2013, bundled residential average rates have increased at an annual average rate of about seven percent for Pacific Gas & Electric (PG&E), five percent for Southern California Edison (SCE), and 10 percent for San Diego Gas & Electric (SDG&E). The primary drivers include wildfire mitigation investments, and transmission and distribution costs. Advancing electrification policies and practices will likely place further pressure on electric costs for distribution, transmission, and generation.

3) *Cost drivers for natural gas utility bills*. Californians have seen a rise in natural gas utility costs, partly associated with safety improvements in response to the tragic explosion in San Bruno in 2008. Additionally, just last winter, Californians experienced disparate price spikes compared to most part of the country as the commodity price of natural gas increased significantly, most acutely in California and other West Coast states.

4) *Electrification, gasoline, diesel*. Utility bill affordability concerns are exacerbated by the interest to adopt policies to reduce the state's GHG emissions by shifting away from fossil fuels towards alternatives, including electrification in the transportation and building sectors. Such a transition relies on changing customer behaviors, in addition to changing policies. However, Californians may be reluctant to switch fuels if electric utility costs are unaffordable, thereby potentially slowing progress towards the state's climate goals. Additionally, these costs would need to compete with the costs (and likely convenience and inertia) of using fuels, such as gasoline and diesel in transportation.

5) *SB 695 Cost Report*. To aid cost management, the CPUC annually puts forth a report of actions that could be taken within the succeeding 12 months to limit utility costs and rate increases, as directed by the Legislature through the enactment of SB 695 (Kehoe, Chapter 337, Statutes of 2009). The report includes information about electricity and natural gas utility bills, cost drivers, forecast of rates, information broken out by large electrical corporations, and actions taken to address affordability, among others. More recently, the report

has included affordability outlook as measured by a CPUC adopted "affordability ratio" developed in the CPUC Affordability proceeding (R. 18-07-006), which uses the most recently available data and presents affordability results for essential level of electricity service for forecasts years.

Comments

1) *Need for this bill.*The author expresses concerns that electric utility bills, in particular, are becoming unaffordable. According to the California Public Advocates Office (PAO), PG&E's electric rates have more than doubled over the last decade. These high rates are coinciding with increased electricity usage throughout the state, as high heat events are driving more air conditioning and climate goals are prompting greater home electrification (e.g., electric vehicle charging). The result of these increasing rates alongside increasing usage is an unaffordable electric bill. The author contends that this bill will provide opportunities to better evaluate existing ratepayer demand-side programs and assess other opportunities to reduce costs on utility bills, including options for the necessary buildout of the transmission system. In this regard, this approach builds off of and expands from existing efforts to better track electricity and natural gas utility costs, including the SB 695 Cost Report, and the affordability metric required by SB 1020 (Laird, Chapter 361, Statutes of 2022).

2) *Timing.* The evaluations and assessments required by this bill include a transmission study and assessment of ratepayer funded demand-side programs by July 1, 2025, while the broader energy costs framework will be first completed by December 31, 2026. In this regard, some of the findings can be provided sooner to allow for adjustments to costs on utility bills more quickly, while the broader framework to look at energy costs is intended to affect rates with a longer-term horizon. Though depending on the findings, additional legislation may be needed to implement any recommendations or learnings.

3) *Gasoline, propane, and diesel?* The author contends that an important consideration to the affordability of energy is a household's full energy portfolio, which includes fuel for vehicles (especially gasoline and diesel) or propane for space heating (where natural gas utility service may not be available). The addition of these metrics is an expansion into energy sources not provided by a regulated utility under the jurisdiction of the CPUC. These sources are sold by unregulated entities (relative to pricing) in the free market. However, the author contends that merely tracking customer electric or gas bills can miss major contributors to consumers' monthly energy expenditures.

Therefore, tracking prices of these other energy sources can provide a fuller picture of the impacts to California households. While some caution is warranted, in terms of expecting cost reductions from these unregulated sources, the inclusion within the metric could be useful to policymakers. Should this bill move forward, members may wish to revisit this approach and whether it is providing a level of helpful information that can benefit policy action or whether it is creating additional work without the intended benefit.

Related\Prior Legislation

AB 2462 (Calderon, 2024) would require additional information in the SB 695 Cost Report regarding costs of electricity utility bills, including requiring the CPUC to identify how current rate trends affect households across their energy uses. The bill is pending before the full Assembly.

SB 1020 (Laird, Chapter 361, Statutes of 2022) among its provisions, required the CPUC to develop electric and natural gas utility service affordability metrics.

AB 2696 (E. Garcia, 2022) would have required the CEC to conduct a study that reviews lower cost ownership and alternative financing for new transmission facilities, among other provisions. The bill was held in the Senate Committee on Appropriations.

SB 695 (Kehoe, Chapter 337, Statutes of 2009) required the CPUC to annually report on recommendations for actions that can be undertaken during the succeeding 12 months to limit utility cost and rate increases, consistent with the state's energy and environmental goals.

AB 67 (Levine, Chapter 562, Statutes of 2005) required the CPUC to annually report on the costs of programs and activities conducted by an electrical corporation or gas corporation that have more than 1,000,000 and 500,000 retail customers, respectively, in California, including activities conducted to comply with their duty to serve.

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

SUPPORT: (Verified 8/30/24)

Advanced Energy United
American Clean Power Association

Building Decarbonization Coalition
California Public Interest Research Group
Earthjustice
Environmental Defense Fund
Natural Resources Defense Council
Public Advocates Office
Silicon Valley Leadership Group
The Utility Reform Network
Union of Concerned Scientists

OPPOSITION: (Verified 8/30/24)

None received

ARGUMENTS IN SUPPORT: The California Public Interest Research Group states:

> California utility rates are some of the highest in the nation. PG&E customers, for example, pay rates two to three times higher than the national average. High electric rates are not only a problem for us as consumers, but also create a hurdle in the race to meet the state's climate goals, which can only be met if we ditch fossil fuels and use renewably generated electricity to power our cars and homes. High electric rates make that transition financially unattractive. …This legislation will help to provide long-term rate relief to Californians and help the state meet our electrification and clean energy goals.

ASSEMBLY FLOOR: 70-0, 5/22/24
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Juan Carrillo, Wendy Carrillo, Chen, Connolly, Davies, Dixon, Flora, Mike Fong, Vince Fong, Gabriel, Garcia, Gipson, Grayson, Haney, Hart, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Jim 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: Calderon, Cervantes, Megan Dahle, Essayli, Friedman, Gallagher, Holden, Mathis, Joe Patterson, Luz Rivas

Prepared by: Nidia Bautista / E., U. & C. / (916) 651-4107
8/30/24 17:27:02

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

SENATE RULES COMMITTEE ACR 120
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: ACR 120
Author: Garcia (D), et al.
Introduced: 1/8/24
Vote: 21

ASSEMBLY FLOOR: Read and adopted, 1/22/24

SUBJECT: Positive Parenting Awareness Month

SOURCE: Triple P America

DIGEST: This resolution declares the month of January 2024 as Positive Parenting Awareness Month.

ANALYSIS: This resolution makes the following legislative findings:

1) Raising children and youth in California to become healthy, confident, capable individuals is the most important job parents and caregivers have as their children's first teachers.

2) The quality of parenting or caregiving, starting prenatally, is one of the most powerful predictors of children's future social, emotional, and physical health.

3) Positive parenting is a protective factor that strengthens family relationships, increases parents' confidence, and increases children's social, emotional, relational, and problem-solving skills.

4) All people have inner strengths or resources, yet many parents, caregivers, children, and youth of every age, race, ethnicity, culture, and social identity feel stressed, isolated, and overwhelmed at times.

5) The COVID-19 pandemic, climate-related crises, and racial injustices have exacerbated economic insecurity, mental health challenges, domestic violence, discrimination, and other trauma experienced by many families, particularly Black, Indigenous, Latinx, Asian, and other families of color that already experience inequities rooted in structural racism.

6) Families in California come in many forms, with children who are raised by parents, grandparents, foster parents, and family members, and supported by other caregivers in a variety of settings such as schools, family childcare, early childhood education centers, health clinics, and home visiting programs.

7) Families can benefit from a "toolkit" of proven strategies and receive support from various positive parenting programs in many counties and tribes through numerous organizations and individual practitioners, thanks to local partnerships, including those between First 5 Commissions, community-based organizations, local government, tribal nations, health and human service providers, schools, libraries, higher education institutions, child welfare agencies, and parent leaders.

8) Counties may implement and encourage positive parenting through a population health approach so that all families have equitable opportunities to access information and support in ways that respect their unique beliefs, traditions, customs, interests, and racial, ethnic, tribal, and cultural practices.

9) Family support professionals and paraprofessionals, recognized for their excellence and compassion across California, provide essential services that support the physical, social-emotional, and behavioral health of children and families.

10) Every individual, community group, business, public agency, nonprofit agency, and tribe in California has a role to play in raising awareness of the importance of positive parenting and supporting the health and well-being of children and families.

This resolution declares the month of January 2024 as Positive Parenting Awareness Month.

Comments

According to the author,

> Decades of research have proven that the quality of parenting or caregiving during childhood is one of the most powerful predictors of future social, emotional, and physical health. Positive parenting can help prevent or mitigate the effects of trauma and adversity that many families are experiencing due to the effects of racial and environmental injustice, and other community crises.

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

SUPPORT: (Verified 2/12/24)

Triple P America (source)

OPPOSITION: (Verified 2/12/24)

None received

Prepared by: Jonas Austin / SFA / (916) 651-1520
2/13/24 13:18:00

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

SENATE RULES COMMITTEE ACR 162
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: ACR 162
Author: Petrie-Norris (D), et al.
Introduced: 3/14/24
Vote: 21

ASSEMBLY FLOOR: 65-0, 5/9/24 (Consent) - See last page for vote

SUBJECT: California Youth Climate Action Day

SOURCE: Author

DIGEST: This resolution recognizes September 20, 2024, and the same date each year thereafter, as California Youth Climate Action Day.

ANALYSIS: This resolution makes the following legislative findings:

1) The urgency of addressing climate change has never been more apparent, with clear scientific evidence showing rapidly increasing global temperatures, leading to severe environmental, health, and economic impacts.

2) The World Health Organization estimates that between 2030 and 2050, climate change is expected to cause approximately 250,000 additional deaths per year from malnutrition, malaria, diarrhea, and heat stress, with the direct damage costs to health estimated to be between $2 billion and $4 billion per year by 2030.

3) Climate change is a consequence of human activities, such as the burning of fossil fuels, extensive use of toxic chemicals in agriculture and commercial products, and deforestation of natural habitats, that have adversely impacted children and families, particularly in environmental justice communities, where the burden of environmental degradation is disproportionately borne.

4) September 20th marked the start of the September 2019 climate strikes, a historic global event initiated by youth activists around the world, bringing together around 6,000,000 participants and sparking an international youth climate movement.

5) The State of California recognizes the importance of educating and engaging young people in environmental stewardship and climate action. The youth of today are the leaders of tomorrow, and their voices and actions are essential in shaping a sustainable and resilient future for all.

6) The State of California acknowledges and applauds the contributions of young activists, and aims to support and empower youth in their efforts to address the urgent challenges posed by climate change.

This resolution recognizes September 20, 2024, and the same date each year thereafter, as California Youth Climate Action Day.

Comments

According to the Author, "The urgency of addressing climate change has never been more apparent. It is increasingly clear that it will be up to young people to lead this fight. ACR 162 proclaims September 20, 2024 as California Youth Climate Action Day to honor and support the efforts of young people in their pursuit of environmental stability, climate justice, and the preservation of biodiversity."

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

SUPPORT: (Verified 5/21/24)

None received

OPPOSITION: (Verified 5/21/24)

None received

ASSEMBLY FLOOR: 65-0, 5/9/24
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Chen, Connolly, Davies, Dixon, Essayli, Mike Fong, Vince Fong, Friedman, Gallagher, Garcia, Gipson, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Lowenthal, Maienschein, McCarty, McKinnor, Muratsuchi, Ortega, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Quirk-Silva, Ramos, Rendon, Reyes, Rodriguez, Blanca Rubio, Sanchez, Santiago, Soria, Ta, Valencia, Villapudua, Waldron, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas

NO VOTE RECORDED: Bains, Cervantes, Megan Dahle, Flora, Gabriel, Grayson, Haney, Low, Mathis, Stephanie Nguyen, Petrie-Norris, Luz Rivas, Schiavo, Ting, Wallis

Prepared by: Aizenia Randhawa / SFA / (916) 651-1520
5/22/24 12:11:22

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

SENATE RULES COMMITTEE ACR 191
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: ACR 191
Author: Bonta (D), et al.
Introduced: 5/1/24
Vote: 21

ASSEMBLY FLOOR: 59-1, 5/28/24 (Consent) - See last page for vote

SUBJECT: Black Lives Matter Month

SOURCE: Author

DIGEST: This resolution recognizes May 2024 as Black Lives Matter Month, recognizing the profound impact of the movement, recommitting to the principles of justice and equality, and calling upon all states to follow in proclaiming their support for a society where truly, Black Lives Matter.

ANALYSIS: This resolution makes the following legislative findings:

1) Nearly a decade ago, the Black Lives Matter movement began not just as a cry for accountability but as a robust advocacy movement for structural change, demanding reforms from body cameras to a transformation of the very architecture of public safety, moving from punitive measures to community empowerment.

2) Black Lives Matter is working for a world where Black lives are no longer systematically targeted for demise and where the lives of Black queer and trans folks, disabled folks, undocumented folks, folks with records, women, and all Black lives along the gender spectrum are affirmed.

3) The Black Lives Matter movement has grown into the largest social justice movement in United States history, with millions of activists, organizers, strategists, and community members across the globe participating in a Black Lives Matter protest over the last decade.

This resolution recognizes May 2024 as Black Lives Matter Month.

Comments

According to the author:

> ACR 191 proudly designates the month of May as "Black Lives Matter Month" shedding light on the injustices faced by the Black community at the hands of law enforcement. This resolution is a testament to the tireless work of the Black Lives Matter movement in fighting for systemic changes and calling for justice and equality.

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

SUPPORT: (Verified 6/4/24)

None received

OPPOSITION: (Verified 6/4/24)

None received

ASSEMBLY FLOOR: 59-1, 5/28/24
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Calderon, Juan Carrillo, Wendy Carrillo, Connolly, Mike Fong, Friedman, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Low, Lowenthal, Maienschein, McCarty, McKinnor, 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, Wilson, Wood, Zbur, Robert Rivas
NOES: Essayli
NO VOTE RECORDED: Bains, Bryan, Cervantes, Chen, Megan Dahle, Davies, Dixon, Flora, Gabriel, Gallagher, Lackey, Lee, Mathis, Muratsuchi, Jim Patterson, Joe Patterson, Sanchez, Ta, Wicks

Prepared by: Holly Hummelt / SFA / (916) 651-1520
6/5/24 13:52:42

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

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

THIRD READING

Bill No: ACR 210
Author: Bennett (D)
Amended: 6/27/24 in Assembly
Vote: 21

SENATE NATURAL RES. & WATER COMMITTEE: 6-4, 8/28/24
AYES: Min, Allen, Laird, Limón, Padilla, Stern
NOES: Seyarto, Dahle, Eggman, Grove
NO VOTE RECORDED: Hurtado

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/30/24
AYES: Caballero, Ashby, Becker, Bradford, Wahab
NOES: Jones, Seyarto

ASSEMBLY FLOOR: 45-12, 8/22/24 - See last page for vote

SUBJECT: Conservation: Marine Protected Areas

SOURCE: Azul
Environment California
Environmental Defense Center
Natural Resources Defense Council

DIGEST: This resolution calls upon specified state agencies to prioritize, as supported by science, public process, and the adaptive management process, the expansion of California's Marine Protected Area Network following its first Decadal Management Review to achieve the state's 30x30 marine conservation goals.

ANALYSIS:

Existing law:

1) Establishes a goal of the state to conserve at least 30 percent of California's lands and coastal waters by 2030. This is known as the "30x30 goal." Public Resources Code (PRC) §71450.

2) Directs the California Natural Resources Agency (CNRA) to prioritize certain actions in implementing the 30x30 goal, including supporting tribal engagement and leadership in implementing the 30x30 goal and partnering with federal agencies to leverage strategic funding and resources in achieving the 30x30 goal, among others. PRC §71451.

3) Directs the CNRA secretary to prepare and submit, on or before March 31, 2024, and annually thereafter, a report to the Legislature on the progress made in the prior calendar year toward achieving the 30x30 goal. PRC §71452.

This resolution:

1) Calls upon CNRA, the Ocean Protection Council (OPC), the Fish and Game Commission (FGC), and the California Department of Fish and Wildlife (CDFW) to prioritize, as supported by science, public process, and the adaptive management process, the expansion of California's Marine Protected Area Network following its first Decadal Management Review to achieve the state's 30x30 marine conservation goals.

2) Makes various findings, including that the California Marine Protected Area Network offers a proven model to safeguard marine habitat and wildlife from climate and extractive stressors.

Background

30x30. Conserving the Earth's lands and waters can help to prevent extinctions and protect the biodiversity and ecosystem services upon which humanity depends. Specifically, the scientific community has identified a need to protect 50% of the Earth's surface by 2050 to achieve these goals. Scientists have called for a step goal of 30% by 2030 to help spur and measure progress toward the 2050 goal. Importantly, protections must be combined with restoration and management efforts to protect the function and services of the Earth's ecosystems. Also, conservation, restoration, and improved management can avoid and reduce greenhouse gas emissions and sequester carbon, helping to advance climate goals.

California's coast and ocean are threatened by the twin crises of climate change and biodiversity loss. To combat the biodiversity crisis in California, Governor

Newsom issued Executive Order N-82-20 in 2020, which adopted a goal to conserve at least 30% of California's land and coastal waters by 2030. SB 337 (Min, Chapter 392, Statutes of 2023) later codified this goal. The state has already conserved 16.2% of its coastal waters through its Marine Protected Areas Network and 24.4% of lands. To reach the goal, it must conserve approximately 500,000 more acres of coastal waters, either through Marine Protected Areas or other options, like partnering with federal and tribal partners on marine conservation programs.

Marine protected areas (MPAs). Under existing law, there are marine managed areas, which include MPAs. Marine managed areas are named, discrete geographic marine or estuarine areas along the California coast designated by law or administrative action, and intended to protect, conserve, or otherwise manage a variety of resources and their uses, including living marine resources and their habitats, scenic views, water quality, recreational values, and cultural or geological resources.

MPAs are a subset of marine managed areas that are specifically designated to protect or conserve marine life and habitat. There are three main types of MPAs: state marine reserves, state marine parks, and state marine conservation areas. In general, state marine reserves do not allow any type of extractive activities, including fishing or kelp harvesting, except for scientific collecting under a permit. State marine parks do not allow any commercial extraction. State marine conservation areas restrict some types of commercial and/or recreational extraction.

According to CNRA, 16.2% of the state's coastal waters are located within 124 MPAs, making this system the largest ecologically-connected MPA Network in the world. These state-managed MPAs regulate fishing; approximately half of the MPAs are "no take" and half are open to limited fishing. Thirty-five MPAs are located adjacent to 42 coastal State Parks units. The network locates MPAs in strategic proximity to each other, encompasses the full range of marine habitats found in California waters, and seeks to help preserve the connections and flow of life between marine ecosystems.

Comments

30x30 coastal waters strategies. To achieve the state's 30x30 coastal waters goal, the state must conserve another 500,000 acres of its coastal waters. California has the following options to meet this goal:

1) Expand the MPA Network by creating new MPAs and/or expanding existing MPAs.
2) Partner with the federal government to strengthen biodiversity protections in National Marine Sanctuaries, which cover over 1.4 million acres or 40.6% of state waters.
3) Partner with Native American tribes to create indigenous marine stewardship areas.
4) Explore opportunities for other effective area-based conservation measures.
5) A combination of these four options.

In 2022, CNRA published *Pathways to 30x30 California: Accelerating Conservation of California's Nature* (*Pathways*), which identifies strategies and priority actions to achieve 30x30. Given the areas of exceptionally high biodiversity in National Marine Sanctuaries off of California's coast, *Pathways* identifies these areas as offering a natural place to focus conservation efforts and providing a pathway for the state to meet or exceed the 30x30 target while maintaining access and sustainable use. According to *Pathways*, the state plans to prioritize a focus on strengthening biodiversity protections in these waters.

Regarding MPAs, *Pathways* states that these protected areas are not the only way to achieve conservation in coastal waters. In particular, the state does not consider sustainable commercial or recreational fishing to necessarily be incompatible with conservation of the state's coastal and marine biodiversity. *Pathways* further notes that the MPA Network only restricts fishing, which is just one of a multitude of threats and stressors faced by coastal and ocean ecosystems. These statements suggest expanding MPAs may not be a significant strategy from the Newsom Administration's perspective to get to the goal.

This resolution calls upon relevant state agencies to take a different approach to prioritize the expansion of California's MPA Network to achieve the state's 30x30 marine conservation goals.

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

According to the Senate Appropriations Committee:

- The California Natural Resources Agency (CNRA) estimates ongoing costs of about $200,000 annually (General Fund) for one position to prioritize the MPA network expansion as specified by this bill.

- To the extent this bill results in an expansion of California's MPA Network, unknown but potentially significant cost pressures (General Fund and possibly other funds) to the Department of Fish and Wildlife (DFW) in order to enforce MPA regulations within additional areas, as well as to various state entities to provide funding for and perform activities related to the restoration and management of additional areas.

SUPPORT: (Verified 8/28/24)

Azul (co-source)
Environment California (co-source)
Environmental Defense Center (co-source)
Natural Resources Defense Council (co-source)
Audubon California
California Coastkeeper Alliance
California Institute for Biodiversity
CleanEarth4Kids.org
Clean Water Action
Earth Echo International
Environmental Action Committee of West Marin
Environmental Center of San Diego
Environmental Protection Information Center
Fish On
Marine Conservation Institute
Pacific Environment
Planning and Conservation League
San Diego Zoo Wildlife Alliance
Save the Waves Coalition
SoCal 350 Climate Action
WILDCOAST

OPPOSITION: (Verified 8/28/24)

Alliance of Communities for Sustainable Fisheries
All Waters Protection and Access Coalition
American Sportfishing Association
Backcountry Hunters and Anglers
California Fishermen's Resiliency Association
Coastal Conservation Association of California
Coastside Fishing Club
Pacific Coast Federation of Fishermen's Associations

San Diego Fishermen's Working Group
Ventura County Commercial Fishermen's Association
West Coast Fisheries Consultants

ARGUMENTS IN SUPPORT: According to the author, "As the climate continues to change, we must do all we can to protect sensitive areas and ecosystems both on land and in water. Marine Protection Areas have been shown to bolster ocean ecosystem health and improve the resilience of fisheries. They also store carbon, creating a valuable site to help combat the climate crisis."

According to a coalition of supporters, "As the state begins to assess what will count toward the additional 500,000 acres needed to conserve 30% of coastal waters by 2030, the quality of protection is key to ensuring that 30x30 effectively safeguards California's marine biodiversity. Science shows that fully and highly protected MPAs have the greatest potential to protect biodiversity, confer resilience, and benefit species and ecosystems. Indeed, State Marine Reserves, which are fully protected, form the backbone of California's MPA network. Additionally, effective marine protections are a prerequisite to equitable access. By making the ocean healthier and more resilient to climate change, stronger marine protections preserve everyone's ability to enjoy the ocean through various activities far into the future. Given the state's limited resources and the impending threats to our ocean and communities, state agencies should prioritize creating, strengthening, and expanding fully and highly protected areas to meet the 30x30 goal in coastal waters."

"ACR 210 is needed to help California continue to set a high bar for effective marine conservation measures. At the 2023 Convention on Biological Diversity Conference of the Parties, California joined the sub-national 30x30 High Ambition Coalition. Prioritizing the creation of fully and highly protected MPAs is a concrete way for our state to lead the world in showcasing strong 30x30 implementation. As noted in California's Pathways to Achieve 30x30 report, current regulations within the state's National Marine Sanctuaries are not enough to stem the threats to biodiversity that California's coastal waters are experiencing and will face. Moreover, the first Decadal Management Review showed that California's MPA Network is effectively working to conserve biodiversity and support climate resilience. The state has an opportunity and a responsibility to California communities to strengthen protections within National Marine Sanctuaries and ensure the MPA Network is strengthened and continues to effectively conserve biodiversity through adaptive management."

ARGUMENTS IN OPPOSITION: According to the Pacific Coast Federation of Fishermen's Associations, "This resolution disregards the robust, transparent, and inclusive processes already underway by [CDFW], the [FGC] and [OPC], who have been entrusted by the [State] to do this work and are currently working on two separate but related projects to meet the goals of the [MLPA] and Executive Order No. N-82-20 (30x30)."

"OPC has been entrusted to determine a science-based approach to 30x30. This process has included the creation of a Pathways to 30x30 plan and is currently undergoing a review of the decision-making framework to evaluate how to best achieve California's 30x30 goals. Adaptive management of the MPA network is only one of four strategies to achieve 30x30 in coastal waters. We support this work and are committed to engaging with and respecting the State's position that 'MPAs are not the only way to achieve conservation in coastal waters, and the state does not consider sustainable commercial or recreational fishing to necessarily be incompatible with conservation of the state's coastal and marine biodiversity.'"

"In addition, California has led the way in developing a network of [MPAs] as was reported in the CDFW MPA Decadal Review in 2023. Moving forward, a transparent process through the [FGC] allowed opportunities for any groups interested in petitioning for changes to the MPA network. A 3-phase approach for evaluating these MPA petitions was approved by the [FGC] in February 2024, and Phase 1 is scheduled to be presented to the [FGC's] Marine Resources Committee on July 17, 2024, for further discussion. This process remains open for public input and is the appropriate venue for groups to provide comments."

A coalition writes in opposition, with particular emphasis on "the language in the resolution that calls for more blanket fishing closures, in the form of "fully protected" and "highly protected" [MPAs]... We agree that our ocean's biodiversity faces many challenges and strongly support the aim of both 30x30 and the MLPA. We fully agree with 30x30's goals of protecting and enhancing biodiversity, expanding equitable access to nature, and building resilience to climate change. However, there are many stressors to ocean ecosystems far beyond the impact of angling, such as failing municipal sewage treatment infrastructure causing almost constant coastal water contamination, municipal storm drainage systems carrying toxic street runoff to the sea, micro plastics getting to the point that they have been estimated to one day outnumber plankton, herbicide and pesticide used in agriculture finding their way into the marine environment, ocean temperature rise, ocean acidification, and much more. ACR 210, with its specific

focus on angling, does not address or propose solutions to any of these broader more systemic issues."

ASSEMBLY FLOOR: 45-12, 8/22/24
AYES: Alvarez, Arambula, Bains, Bennett, Berman, Boerner, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Connolly, Friedman, Gabriel, Garcia, Gipson, Grayson, Hart, Jackson, Jones-Sawyer, Kalra, Lee, Lowenthal, Maienschein, Muratsuchi, Stephanie Nguyen, Pacheco, Papan, Pellerin, Quirk-Silva, Ramos, Rendon, Reyes, Luz Rivas, Rodriguez, Blanca Rubio, Santiago, Schiavo, Soria, Ting, Valencia, Villapudua, Ward, Wood, Zbur, Robert Rivas
NOES: Megan Dahle, Dixon, Essayli, Gallagher, Hoover, Lackey, Mathis, Jim Patterson, Joe Patterson, Sanchez, Ta, Wallis
NO VOTE RECORDED: Addis, Aguiar-Curry, Alanis, Bauer-Kahan, Bonta, Cervantes, Chen, Davies, Flora, Mike Fong, Haney, Holden, Irwin, Low, McCarty, McKinnor, Ortega, Petrie-Norris, Waldron, Weber, Wicks, Wilson

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8/30/24 17:27:03

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

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THIRD READING

Bill No: AJR 15
Author: Irwin (D), et al.
Introduced: 4/2/24
Vote: 21

SENATE REVENUE AND TAXATION COMMITTEE: 6-0, 6/12/24
AYES: Glazer, Dahle, Bradford, Dodd, Padilla, Skinner
NO VOTE RECORDED: Ashby

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 70-0, 5/20/24 - See last page for vote

SUBJECT: State and local tax (SALT) deduction limitation: repeal

SOURCE: Author

DIGEST: This resolution urges the Congress of the United States to repeal the state and local tax deduction limitation.

ANALYSIS:

Existing law:

1) Allows generally, under federal law, until 2017, taxpayers to deduct certain state and local taxes (SALT) when calculating their taxable income.

2) Enacts, under federal law, enacts the Federal Tax Cuts and Jobs Act (TCJA) which changed several itemized deductions, including the one to cap the total SALT deduction to $10,000 for individuals or married filing jointly, or $5,000 if married filing separately.

3) Sunsets, under federal law, TCJA's limitation on the SALT deduction after the 2025 taxable year.

This resolution:

1) Urges the Congress of the United States to repeal the SALT deduction limitation so residents of California and married taxpayers are no longer penalized by the federal tax code.

2) States that, among other findings, TCJA's SALT deduction limitation was specifically and unjustly intended to penalize the residents of California and other states with income taxes, unjustly penalizes married couples that would each be eligible for a $10,000 deduction if they filed their taxes separately, and promotes double taxation.

3) Directs the Chief Clerk of the Assembly to transmit copies of AJR 15 to the President and the Vice President of the United States, to the Speaker of the House of Representatives, to the Majority Leader of the Senate, to each Senator and Representative from California in Congress, and to the author for appropriate distribution.

Background

Getting SALTY. While the TCJA was the first significant limitation of the SALT deduction, Congress had debated limiting or eliminating the deduction for years, if not decades. The United States Department of Treasury under President Reagan proposed a phaseout of the deduction, arguing that the deduction essentially amounted to a federal subsidy for states that impose higher tax rates. Further, the deduction's benefits skew towards higher-income taxpayers, as only taxpayers who itemize deductions claim it, and most taxpayers of lower income claim the standard deduction. According to the Congressional Joint Committee on Taxation, in 2018, taxpayers with an income above $100,000 claimed 91% of the SALT deduction benefit. The Tax Foundation argues affected taxpayers are concentrated in higher-tax states, notably California, New Jersey, and New York, among others. Additionally, proponents of repealing the deduction entirely argue that any change does not directly impact state and local revenues, but instead makes taxpayers more conscious of the actual cost of services in the form of relatively higher taxes by repealing any federal subsidy.

On the other hand. Many proponents for the SALT limitation agree that its primary beneficiaries are higher-income taxpayer. However, the limitation can also be understood as a redistribution of the federal tax burden between higher income taxpayers in progressive and regressive states- As noted below, the SALT deduction limitation helped pay for other tax reductions in TCJA, where benefits disproportionately accrued to those with higher incomes. Residents of states with

no income taxes or less progressive rate schedules received all the benefits from TCJA, largely without any drawbacks. These states generate less revenue per capita and generally provide lower quality services, on which those of lower income generally depend on more. These states also usually assign a higher tax burden to lower-income individuals by relying on higher sales taxes or less progressive income tax schedules. In more progressive states, TCJA's other benefits for higher-income taxpayers were offset by the SALT limitation. California's tax system is famously progressive. For example, the state was a progressive rate schedule of 1% to 13.3%, robust dependent exemption credits, and the State's Earned Income and Young Child Tax Credits can entirely offset income taxes lower-income taxpayers would otherwise have to pay.

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

SUPPORT: (Verified 6/25/24)

California Association of Realtors

OPPOSITION: (Verified 6/25/24)

None received

ARGUMENTS IN SUPPORT: According to the author, "the state and local tax deduction, often referred to as the 'SALT' deduction, is a federal tax benefit that encourages state and local investments in infrastructure, public safety, home ownership, and education. In California, prior to the $10,000 cap being instituted in 2017, more than 1 in 3 California taxpayers claimed the SALT deduction and the average deduction amount was over $18,000. The $10,000 cap is the same for both single and married filers, which means that this change penalized married couples and their children simply for having a family. As Congress negotiates tax policies set to expire at the end of 2025, AJR 15 urges our Federal representatives to revisit this misguided decision and stop penalizing married couples that file jointly."

ASSEMBLY FLOOR: 70-0, 5/20/24
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Chen, Connolly, Davies, Dixon, Flora, Mike Fong, Vince Fong, Friedman, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, McCarty, McKinnor, Muratsuchi, Ortega, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Rendon, Reyes, Rodriguez, Blanca Rubio,

Sanchez, Santiago, Schiavo, Soria, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas
NO VOTE RECORDED: Arambula, Cervantes, Megan Dahle, Essayli, Gabriel, Jackson, Mathis, Stephanie Nguyen, Luz Rivas, Ta

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6/26/24 13:53:49

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