



LEGISLATION COMMITTEE

May 9, 2016
10:30 A.M.

651 Pine Street, Room 101, Martinez

Supervisor Federal D. Glover, Chair
Supervisor Karen Mitchoff, Vice Chair

Agenda Items:	Items may be taken out of order based on the business of the day and preference of the Committee
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1. Introductions
2. Public comment on any item under the jurisdiction of the Committee and not on this agenda (speakers may be limited to three minutes).
3. **REVIEW and APPROVE the Record of Action from the March 14, 2016 meeting.**
4. **CONSIDER recommending to the Board of Supervisors a position of "Support" on AB 2642 (E. Garcia): Removing Barriers to Employment Act: Initiative, as recommended by Stephen Baiter, Executive Director of the Workforce Development Board.**
5. **CONSIDER recommending to the Board of Supervisors a position on AB 2466 (Weber): Voting: Felons.**
6. **CONSIDER recommending to the Board of Supervisors a position of "Support" on AB 2128 (Achadjian): Marriage, as recommended by the Clerk-Recorder.**
7. **CONSIDER recommending to the Board of Supervisors a position on SB 941 (Mitchell): Juveniles, as recommended by the County Administrator.**
8. **CONSIDER recommending to the Board of Supervisors a position of "Oppose" on SB 1170 (Wieckowski) Public Contracts: Water Pollution Prevention Plans, as recommended by the Public Works Director.**
9. **ACCEPT the reports on the state bills of interest to Contra Costa County and the federal issues update, and provide direction to staff as needed.**
10. The next meeting is currently scheduled for June 13, 2016.
11. Adjourn

The Legislation Committee will provide reasonable accommodations for persons with disabilities planning to attend Legislation Committee meetings. Contact the staff person listed below at least 72 hours before the meeting.

Any disclosable public records related to an open session item on a regular meeting agenda and distributed by the County to a majority of members of the Legislation Committee less than 96 hours prior to that meeting are available for public inspection at 651 Pine Street, 10th floor, during normal business hours.

Public comment may be submitted via electronic mail on agenda items at least one full work day prior to the published meeting time.

For Additional Information Contact:

Lara DeLaney, Committee Staff
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Contra Costa County Board of Supervisors

Subcommittee Report

LEGISLATION COMMITTEE

3.

Meeting Date: 05/09/2016
Subject: Record of Action
Submitted For: INTERNAL OPERATIONS COMMITTEE,
Department: County Administrator
Referral No.: 2016-14
Referral Name: Record of Action
Presenter: L. DeLaney **Contact:** L. DeLaney, 925-335-1097

Referral History:

County Ordinance requires that each County body keep a record of its meetings. Though the record need not be verbatim, it must accurately reflect the agenda and the decisions made in the meeting. Any handouts or printed copies of testimony distributed at the meeting will be attached to this meeting record.

Referral Update:

Attached for the Committee's consideration is the Record of Action for its March 14, 2016 meeting.

Recommendation(s)/Next Step(s):

APPROVE the Record of Action from the March 14, 2016 meeting with any necessary corrections.

Attachments

Attachment A: Record of Action - March 14, 2016

Attachment B - Sign-in sheet



LEGISLATION COMMITTEE

RECORD OF ACTION

March 14, 2016

10:30 A.M.

651 Pine Street, Room 101, Martinez

Supervisor Federal D. Glover, Chair
Supervisor Karen Mitchoff, Vice Chair

Agenda Items:

Items may be taken out of order based on the business of the day and preference of the Committee

Present: Federal D. Glover, Chair
Karen Mitchoff, Vice Chair

Staff Present: Lara DeLaney, Senior Deputy County Administrator
Terry Speiker, County Administrator's Office
Vana Tran, County Administrator's Office
Jami Napier, Clerk of the Board
Rebecca Hooley, County Counsel
Eric Gelston, County Counsel
Susan Jeong, Employment and Human Services
Todd Billeci, Probation
Jeff Carman, Contra Costa County Fire

Attendees: Rebecca Rozen, Hospital Council
Nancy Olson, John Muir Health

1. Introductions
2. Public comment on any item under the jurisdiction of the Committee and not on this agenda (speakers may be limited to three minutes).

The Committee accepted public comment.

AYE: Chair Federal D. Glover, Vice Chair Karen Mitchoff
Passed

3. APPROVE the Record of Action from the Feb. 8, 2016 meeting with any necessary corrections.

The Committee accepted the Record as presented.

AYE: Chair Federal D. Glover, Vice Chair Karen Mitchoff
Passed

4. CONSIDER recommending to the Board of Supervisors a position of support on the Medi-Cal Funding and Accountability Act, as recommended by Dr. William Walker.

The Committee voted unanimously to recommend a position of Support on the Act and requested that it be scheduled as a Discussion item to foster education on the issue.

AYE: Chair Federal D. Glover, Vice Chair Karen Mitchoff

Passed

5. CONSIDER recommending to the Board of Supervisors a position of "Oppose" on AB 1707 (Linder), as introduced: Public Records: Response to Request, as recommended by the Clerk of the Board Jami Napier.

The Committee voted unanimously to recommend adopting an Oppose position on AB 1707 to the Board of Supervisors. The Committee recommended this be placed on the Consent calendar.

AYE: Chair Federal D. Glover, Vice Chair Karen Mitchoff

Passed

6. CONSIDER recommending to the Board of Supervisors a position of "Oppose" on SB 885 (Wolk), as introduced: Construction contracts: Indemnity, as recommended by Fire Chief Jeff Carman.

The Committee requested additional information from staff and our lobbyist on this bill and took no further action.

AYE: Chair Federal D. Glover, Vice Chair Karen Mitchoff

Passed

7. CONSIDER recommending to the Board of Supervisors an amendment to the County's adopted Federal Platform to include support for funding the development of an Emergency Operations Center (EOC) as the County's top priority for federal funding needs.

The Committee voted unanimously to recommend an amendment to the County's adopted Federal Platform to the Board of Supervisors.

AYE: Chair Federal D. Glover, Vice Chair Karen Mitchoff

Passed

8. CONSIDER the matter of federal earmark repurposing for transportation projects, and provide direction to staff as needed.

Supervisor Glover noted that he is following-up on this matter through the Metropolitan Transportation Commission (MTC).

AYE: Chair Federal D. Glover, Vice Chair Karen Mitchoff

Passed

9. ACCEPT the FY 2014/15 AB 109 Annual Report for Contra Costa County and provide direction to staff, as needed.

The Committee accepted the report and requested that it be posted on the County website.

AYE: Chair Federal D. Glover, Vice Chair Karen Mitchoff

Passed

10. The next meeting is currently scheduled for April 11, 2016.

11. Adjourn

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3/14/16

LEGISLATION COMMITTEE

SIGN-IN SHEET

Signing in is voluntary. You may attend this meeting without signing in.

Name	Representing	Phone
Susan Jeong	CHSD	925-313-1780
Jerry Speiker	CAO Office	925-335-1095
Jami Napier	Clerk of the Board	925-335-1908
Rebecca Hooley	County Counsel's Office	925-335-1854
Rebecca Rozen	Hospital Council	925-746-1550
Nancy Olson	John Muir Health	925-941-2268
Todd Billet	Probation	(925) 313-4149
Eric Gelston	County Counsel's office	335-1892
Jeff Carman	FIRE	941-3300



Contra Costa County Board of Supervisors

Subcommittee Report

LEGISLATION COMMITTEE

4.

Meeting Date: 05/09/2016
Subject: AB 2642 Removing Barriers to Employment Act: Initiative
Submitted For: LEGISLATION COMMITTEE,
Department: County Administrator
Referral No.: 2016-12
Referral Name: AB 2642 Removing Barriers to Employment Act: Initiative
Presenter: Stephen Baiter **Contact:** L. DeLaney, 925-335-1097

Referral History:

This bill was referred to the Legislation Committee by Stephen Baiter, Executive Director of Workforce Development Board of Contra Costa County.

Referral Update:

Assembly Bill (AB) 2642 would enact the Removing Barriers to Employment Act to establish a specified initiative to create a grant program to assist individuals who have multiple barriers to employment receive the remedial education and work readiness skills to successfully participate in training, apprenticeship or employment opportunities.

Status: 04/19/2016 From ASSEMBLY Committee on JOBS, ECONOMIC DEVELOPMENT AND THE ECONOMY: Do pass as amended to Committee on APPROPRIATIONS. (9-0)

Bill Analysis 04/17/2016:

SUMMARY: Establishes the Breaking Barriers to Employment Initiative for the purpose of assisting individuals who have multiple barriers to employment to receive the remedial education and work readiness skills that will help them to successfully participate in training, apprenticeship, or employment opportunities that will lead to self-sufficiency and economic stability. Specifically, this bill:

- 1) Finds and declares, among other things, the following:
 - a) Although the California economy has demonstrated growth through overall lower unemployment and higher job growth, poverty is still an issue concentrated in many of our cities and among many of our citizens. The California Poverty Measure reported in 2015 that 78% of Californians in poverty live in families with at least one adult working, with 69% of those individuals working full time.
 - b) With low wages and lack of job skills, this target population falls further behind and cannot escape poverty. There is a need for improved access and funding to provide "career pathway" services, particularly for the poor.

- c) Increased funding for services such as English language improvement training, basic skills and adult education, high school diploma and GED acquisition, skills training, work experience, on-the-job training, mentoring, case management, and more is needed to bridge the gap to gainful employment for these particularly vulnerable populations.
- d) Special emphasis is needed to make sure that programs reach those among us with the most difficult needs with the goal of preparing those persons for training, educational, apprenticeship or employment opportunities.
- 2) Establishes the Breaking Barriers Initiative within the Labor and Workforce Development Agency for the purpose assisting individuals who have multiple barriers to employment to receive the remedial education and work readiness skills that will help them to successfully participate in training, apprenticeship, or employment opportunities.
- 3) Authorizes the Secretary of Labor and Workforce Development (Secretary) to assign all or part of the administration of the initiative to one or more entities within the agency's oversight or outside the agency's jurisdiction with the agreement of the state entity to meeting the initiative's requirements.
- 4) Requires the Secretary to consult with public and private stakeholders, including nonprofit community-based organizations, workforce development boards, local governments, and other entities that serve individuals who face barriers to employment.
- 5) Provides that initiative funding will be appropriated through the budget act, as specified.
- 6) Requires the Secretary to develop criteria for the selection of grant recipients that provides for:
- a) Outreach and technical assistance to prospective applicants, especially in rural and small population areas;
- b) A competitive award process that addresses the need for a range of targeted populations and geographic locations to receive training opportunities;
- c) No less than 90% of the funds being used for direct services to the clients who face multiple barriers to employment; and
- d) The lead community-based organization to demonstrate their ability to successfully deliver previous programs to targeted populations they are proposing to serve using the grant funds.
- 7) Requires each application to have at least one lead workforce investment board and one lead community-based organization. An application that proposes to serve clients across one or more workforce investment areas is required to either:
- a) Document the existence of a current memorandum of understanding with each workforce board within the proposed service area; or
- b) Provide a letter of acknowledgment from each workforce board within the proposed service area.
- 8) Provides that non-lead workforce development boards within the service area are not required to have a role within the scope of the application and that obtaining the letter of acknowledgement is the responsibility of the lead workforce investment board.

9) Requires applicants to apply for funds to serve one or more targeted populations in one or more neighborhoods, local jurisdictions, regions, or statewide. Each application is required to explain how the proposed training program or service is designed to complement the work of, and integrate the individuals being served with, the workforce development boards within the proposed service area. Targeted populations include:

- a) Youths who are disconnected from the education system or employment;
- b) Women seeking training or education to move into nontraditional fields of employment;
- c) Workers displaced by the movement of an employer or those who are long-term unemployed;
- d) Unskilled or under-skilled, low-earning workers looking to advance into better-paying employment opportunities;
- e) Persons for whom English is not their primary language;
- f) Economically disadvantaged persons who face barriers to reaching training or apprenticeship opportunities for sustainable careers;
- g) CalWORKS participants;
- h) Persons who are incarcerated and soon to be released or formerly incarcerated;
- i) Armed services veterans who face barriers due to skills that are not applicable to employment, training, apprenticeship opportunities in the region in which they live, or because of mental health, health, or other barriers that serve as impediments to those opportunities;
- j) Native Americans or migrant, seasonal farmworkers; and
- k) People with developmental or other disabilities.

10) Requires each grant proposal to explain the specific purpose of the grant funds and define the general methodology and training methods proposed to be used.

11) Specifies that grant funding may be used for, but is not limited to, English language improvement training, basic skills and adult education, high school diploma and GED acquisition, skills training, work experience, on-the-job training, earn-as-you-learn programs, industry certifications, mentoring, and other remedial education and work readiness skills.

12) Requires the grant proposal to identify baseline criteria and metrics by which the overall success of the grant program can be evaluated. The proposal shall also explain the manner in which the progress of the individuals participating in the program will be monitored during the grant period.

13) Establishes the following goals for the initiative:

- a) Individuals who face multiple barriers to employment take measureable steps to remediate education and workforce readiness skills;
- b) Partnerships between community-based organizations and workforce development boards, community colleges, and other providers of quality education and training are demonstratively strengthened in ways that benefit their client's ability to continue to access

services and establish career pathways; and

c) Community-based organizations increase their capacity to achieve and measure results.

14) Requires grant proposals to include a pre-service education and training assessment, which will form the baseline for measuring program performance, consistent with the initiative goals. A prior assessment may be used if, in the determination of the Secretary, its results are accurate and appropriate for the grant proposal.

15) Specifies that measurements of success are to be based on the initiative goals, as relevant to the targeted population and baseline measurements set through the individual client assessment. These measurements may include, but are not limited to:

a) The number of participants in the program who have completed a high school diploma or received a GED;

b) The number of participants in the program who have completed a remedial education program;

c) The number of participants in the program who have completed a work readiness program;

d) The number of participants who have completed a certified drug treatment or mental health program;

e) The number of participants who have matriculated to a pre-apprenticeship or apprenticeship program; and

f) The number of participants who passed the Ability to Benefit test and enrolled into an Adult Education-Career Pathway program, as defined in USC section 484(d)(2) of the 1988 Amendment to the Higher Education Act.

16) Requires that key features of the grant be provided in a memorandum of understanding between the lead applicants and the agency, including, but not limited to, the purpose of the grant, expected outcomes, the oversight and monitoring process, and reporting requirements.

17) Requires that, as a condition of receiving funds, a grant recipient shall agree to provide information to the Secretary, as necessary to meet all reporting requirements.

18) Requires grant recipients to report, at least on an annual basis, and upon completion of the grant period regarding their use of funds, workforce training outcomes, and any other information required by the secretary.

19) Requires the Secretary to post a report on the agency's Internet Web site by January 1, 2018 that aggregates the information provided by the grant recipients, including, but not limited to, the overall success of the grant programs.

20) Authorizes the Secretary to fund a full-scale project that uses a model that was previously funded as a pilot project through the Workforce Accelerator, the Supervised Population Workforce Training Program, SlingShot, or other existing programs to the extent that the goals, measures, and metrics are sufficiently aligned with the initiative. These core components include:

a) Serving the same client base;

- b) Addressing the needs of individuals who face multiple barriers to employment to receive remedial education and work readiness skills;
- c) Having an end goal of preparing those individuals for further training that results in apprenticeship or middle-skill employment opportunities; and
- d) Having applications jointly filed with one or more workforce investment boards and one or more community-based organizations serving as the lead.

EXISTING LAW establishes the Labor and Workforce Development Agency (Agency) for the purpose of addressing issues relating to California workers and their employers. The Agency is responsible for labor law enforcement, workforce development, and benefit payment and adjudication. The Agency works to combat the underground economy and help legitimate businesses and workers in California through a combination of enforcement and education activities. Departments and other state entities under the Agency include:

- 1) Agricultural Labor Relations Board;
- 2) The California Workforce Board;
- 3) The Employment Development Department, including the Employment and Employment-related Services Program and the National Dislocated Workers Grant Program;
- 4) Employment Training Panel;
- 5) The Department of Industrial Relations, including the Division of Apprenticeship Standards; and
- 6) Public Employment Relations Board.

FEDERAL EXISTING LAW

- 1) Authorizes the Workforce Innovation and Opportunity Act of 2014 for the purpose of:
 - a) Increasing, for individuals in the US, access to and opportunities for the employment, education, training, and support services they need to succeed in the labor market, particularly those individuals with barriers to employment.
 - b) Supporting the alignment of workforce investment, education, and economic development systems in support of a comprehensive, accessible, and high-quality workforce development system in the US.
 - c) Improving the quality and labor market relevance of workforce investment, education, and economic development efforts to provide America's workers with the skills and credentials necessary to secure and advance in employment with family-sustaining wages and to provide America's employers with the skilled workers the employers need to succeed in a global economy.
 - d) Promoting improvement in the structure of and delivery of services through the US workforce development system to better address the employment and skill needs of workers, jobseekers, and employers.
 - e) Increasing the prosperity of workers and employers in the US, the economic growth of communities, regions, and States, and the global competitiveness of the United States.

f) Providing workforce investment activities, through statewide and local workforce development systems, that increase the employment, retention, and earnings of participants, and increase attainment of recognized postsecondary credentials by participants, and as a result, improve the quality of the workforce, reduce welfare dependency, increase economic self-sufficiency, meet the skill requirements of employers, and enhance the productivity and competitiveness of the Nation.

2) Defines an eligible career pathway program, pursuant to the federal Higher Education Act, to mean a program that:

a) Concurrently enrolls participants in connected adult education and eligible postsecondary programs;

b) Provides counseling and supportive services to identify and attain academic and career goals;

c) Provides structured course sequences that are articulated and contextualized; and allow students to advance to higher levels of education and employment;

d) Provides opportunities for acceleration to attain recognized postsecondary credentials, including degrees, industry relevant certifications, and certificates of completion of apprenticeship programs;

e) Is organized to meet the needs of adults;

f) Is aligned with the education and skill needs of the regional economy; and

g) Has been developed and implemented in collaboration with partners in business, workforce development, and economic development.

FISCAL EFFECT: Unknown

POLICY ISSUE FRAME

In implementing the federal Workforce Innovation and Opportunity Act of 2014, California has set aggressive new goals and objectives to guide the state's workforce development system. By 2027, California is committed to producing one million "middle-skill" industry valued and recognized postsecondary credentials and to double the number of people enrolled in apprenticeship programs.

Achieving this goal is important to California remaining competitive within the global marketplace. One of the key challenges, however, are the current labor shortage for middle-skill jobs and the significant number of workers who are not currently ready to take on middle-skill training.

AB 2642 proposes a comprehensive initiative to assist the millions of workers who currently face significant barriers to employment to obtain the remedial education and work readiness skills necessary to help the state meet its goals and to become financially secure and independent.

The analysis includes background on the California economy, the state's growing income inequality, and discussion on why it is important to create new opportunities to assist individuals who face barriers to employment into the workforce. Amendments are discussed in Comment #4 to further clarify the purpose and structure of the Breaking Barriers to Employment initiative.

COMMENTS:

1) The California Economy in the Future: As California continues to transition from the recession, businesses and workers face an economy comprised of highly integrated industry sectors that are also more geographically dispersed. Advances in technology and processes are occurring more rapidly. This is resulting in competitiveness being increasingly defined in terms of speed, flexibility, specialization, and innovation.

	Key Economic Trends Affecting the California Economy
1	Cities and regions will become more dominant economic players.
2	Global networks will be supported through more advanced information and transportation technologies.
3	Barriers to trade will continue to decline among both developed and emerging economies.
4	The world's largest companies will increasingly be headquartered in emerging foreign markets.
5	Global and more diversified markets will provide new opportunities for entrepreneurs and smaller size businesses.
6	Scarcity and rising prices will increase pressure on the development and deployment of cleaner technologies.
7	Deepening income inequality will result in costly outcomes, most adversely affecting women, minorities, immigrants, the disabled, and the formerly incarcerated, and thus require the diversion of public resources to address unemployment, poverty, and social unrest.
8	The retirement of Boomers will place an even greater need for middle- and high-skilled workers.
9	The U.S workforce will be smaller, more ethnically diversified, and have educational backgrounds that are lower than many other developed economies.

Source: Researched and compiled from various sources by the Assembly Committee on Jobs, Economic Development, and the Economy

Economists have identified nine key trends (see chart) that will most influence the U.S. and California economies. Several of these trends place new and demanding challenges on California's training and workforce system.

Advances in information technology, advanced manufacturing, complex logistical networks, and the need to have more environmentally sustainable products are just a few of the new workforce realities. Even entry-level workers will be expected to have important soft skills, such as the ability to work in teams, actively listen, communicate effectively with co-workers and bosses, and be able to negotiate workplace needs in a positive manner. Unlike hard skills, which are about a person's ability to perform a certain task or activity, soft skills provide the tools necessary to learn and advance in the state's continually evolving workplace environment.

The modern economy has also given rise to a growing need for smaller businesses because of their ability to provide innovative technologies and help other businesses access global markets. While vital economic players, small businesses and entrepreneurs face unique challenges in competing in an increasingly global and interconnected marketplace.

Programs and services which may have been designed to serve large companies may need to be retooled to better serve the nearly 90% of businesses that have less than 20 employees. These small and adaptable businesses will have an inherent advantage in the post-recession economy, provided they are able to obtain the skillsets necessary to run a successful business and have access to appropriately trained workers.

Another key economic trend is the rising importance of regional economies as one of the primary drivers of economic growth. The economic foundation of many strong regional economies are innovation-based industry clusters which have the ability to support high-paying jobs, lucrative career ladders, and longer term job stability. Economic researchers have shown that industry clusters rise in areas where local universities, research labs, and competing businesses within the same industry provide a critical mass of skilled workers. Though the economic composition of regions may differ in California, each region has strengths and weaknesses. The effective identification and cultivation of these industry strengths will factor heavily on the future economic success of California's regional economies.

All these changes are occurring at the same time that California and the U.S. confront the social, cultural, and economic impacts of demographic change. The U.S. Census Bureau projects that by 2043 a majority of the U.S. population will be comprised of people of color. In 2014, people of color were already the majority in California, Hawaii, New Mexico, and Texas, with another nine states were close to 50%. The growing diversity within the workforce also represents a significant generational shift of the predominantly white baby boomers rapidly aging-out of workplace.

Many of these new market realities are already coming to fruition and, for now, California's workforce is underprepared to meet these demands. Decades of underinvestment in public education, afterschool programs, and continuing education programs that feed into career pathways to the state's dominant and emerging industry sectors directly threaten the state's competitiveness. There are still numerous unemployed and underemployed workers in California, while simultaneously, there are businesses reporting that they are unable to find qualified workers to fill empty positions. Strong early education programs, career technology pathways, accessible higher education, and effective and timely workforce development programs are essential to equipping California workers with the skillsets that are in demand.

2) Income Disparities: California's overall economic growth and increase in jobs has outpaced the U.S. in general, often ranking the state within the top five states in terms of its economic condition. This success, however, has not been consistent throughout the state with many regions and certain population groups still experiencing recession-related poor economic conditions.

According to the U.S. Census Bureau, California's poverty rate is 16.4% as compared to a national rate of 15.6%. It is estimated that nearly a quarter of California's children (22.7%) are living in households with annual incomes below the federal poverty line. Contributing factors to these poverty rates are stagnate wage rates, an increasing concentration of annual income among the highest income earning individuals, and differing job opportunities in the post-recession economy.

A review of the most recent unemployment numbers in the chart below illustrates this expanding pattern of economic disparity between regions and population groups in California.

Unemployment February 2016 (not seasonally adjusted)

	Unemployment Rate		Unemployment Rate
California	5.7%	California	5.7%

Colusa County	21.6%	Blacks	10.8%
Imperial County	18.6%	Hispanics	7.4%
Los Angeles County	5.5%	Whites	5.8%
Orange County	4.0%	16 to 19 year olds	20.5%
Riverside County	5.9%	20 to 24 year olds	10.9%
San Bernardino County	5.6%	25 to 34 year olds	6.2%
San Mateo County	3.0%	Source:	California Employment Development Department
Tulare County	12.1%		
Ventura County	5.1%		

While the state's unemployment rate for February 2016 (not seasonally adjusted) was 5.7%, some areas of the state had lower rates, while others were considerably higher. San Mateo County recorded the lowest at 3.0% and Colusa County experienced the highest unemployment rate at 21.6%. For the first time in more than a year, Imperial County did not have the highest unemployment rate in the state. Inland areas generally reported unemployment rates above the statewide average. As the chart above shows, Tulare County's unemployment rate was 12.1% and Riverside County was recorded as 5.9%. Coastal areas overall had lower rates than the state's, with Orange County at 4.0%, Los Angeles County at 5.5%, and Ventura County at 5.1%. Under the federal Workforce Innovation and Opportunity Act, high unemployment is considered any rate above 6.5%.

Looking more specifically at different population groups, the data also shows the great discrepancies between the statewide rate and key subgroups, including unemployment among Blacks and Hispanics being 10.8% and 7.4% respectively. For the youngest members of the workforce obtaining quality jobs remains a significant issue, with unemployment among 16 to 24 years being well above the state average, ranging from 20.5% to 10.9%. According to February's figures, one-in-five of California's next generation of workers is unemployed.

Just as the unemployment data shows the growing economic disparities by geography, race/ethnicity, and age, research also confirms that a greater percentage of total aggregate earnings are going to a smaller group of individuals. According to the World Top Income Database, pretax income among those with the highest 1% of income in California comprised 9.82% of total income in 1980 and 25.31% in 2013. These findings could signal a larger issue in that a growing body of economic studies show that large-scale income disparities correlate to shorter periods of economic growth, whereas societies with lower levels of income disparity have larger and longer-term periods of growth.

Achieving job growth within globally competitive industries and addressing the state's growing income disparities may require different community and economic development approaches, as well as more coordinated efforts by industry, labor, nonprofits, and government on a range of issues, including education, workforce training, infrastructure repair and expansion, entrepreneurship, and finance, among others.

3) Creating On-Ramps to Success: The federal Workforce Innovation and Opportunity Act of 2014 represents the most significant shift in federal workforce policy in several decades. Among other requirements, the act mandates that the state develop a plan for making workforce investments, set goals, and report on their progress. Future federal funding will

be dependent on the state meeting established milestones leading to these goals.

California's Unified Strategic Workforce Development Plan (State Plan) outlines a comprehensive four-year strategy for investing federal workforce training and employment service dollars in a manner that aligns and coordinates six core Workforce Innovation and Opportunity Act funded programs. The state goal (2017 through 2027) is to produce one million "middle-skill" industry valued and recognized postsecondary credentials. In meeting this goal, the State Plan anticipates doubling the number of people enrolled in apprenticeship programs.

While certainly a laudable goal to guide the state's workforce investment system, achieving those goals will be challenging. Key among those challenges is the significant number of workers who are not currently ready to take on middle-skill training. In 2012, there were 1.9 million unfilled middle skill jobs. This number is expected to grow as one-third of middle skill workers retire over the next ten years.

AB 2642 establishes the Breaking Barriers to Employment initiative, administered through the Labor and Workforce Development Agency, to provide a framework for one or more competitive grant programs. Moneys awarded through this initiative will help to operationalize an innovative model of collaboration between two important workforce partners for the benefit of populations that routinely face barriers to employment.

The program's targeted populations include, but are not limited to, veterans, unskilled and low-skilled workers, out-of-school youth, foster youth, long-term unemployed, individuals with developmental and other disabilities, Native Americans, formerly incarcerated individuals, farmworkers, and other economically disadvantaged individuals.

The Breaking Barriers model is designed to leverage the experience of community-based organizations to work with targeted populations to remediate education and workforce readiness skills and to collaborate with workforce boards to transition clients to career pathways and sector strategies developed by local workforce boards. The authors believe that the initiative will create a career on-ramp for groups that have been historically disconnected from traditional programs.

AB 2642 builds upon key objectives in the State Plan by assisting individuals to obtain the fundamental skills necessary to prepare for work in high priority industries, leverage multiple services to meet a worker's individual needs, and target people who face systemic barriers to employment.

4) Amendments: Staff understands that the author will offer amendments to:

a) Add legislative intent to clarify that there are multiple career pathways that have been developed by the state, federal, and tribal governments, as well as community based organizations;

b) Add vocational training, entrepreneurship training, stipends for trainees, and pre-apprenticeship programs to the list of eligible activities for grants;

c) Clarify that direct services includes staffing to provide those direct services;

d) Modify the deadline for documenting notification of non-lead workforce development boards from the time the application is submitted to prior to the signing of the grant agreement;

e) Clarify that either or both of the lead community-based organization or the lead workforce development board may submit the application;

- f) Remove unnecessary descriptors for the targeted populations;
- g) Change the name of the grant contract from "memorandum of understanding" to "grant agreement";
- h) Clarify that in the first year of the initiative, the Secretary will provide a status report on the implementation of the grant; and
- i) Make other technical and conforming changes.

3) Related Legislation: Below is a list of the related bills.

a) AB 80 (Campos) Interagency Task Force on the Status of Boys and Men: This bill would have established a 20-member Interagency Task Force on the Status of Boys and Men of Color. Issues to be addressed by the Task Force would include, but not be limited to, employment and wealth creation, health and safety, education, and juvenile justice. Status: Vetoed by the Governor, 2015. Governor's Veto Message: How state policy can be tailored to promote the well-being of boys and men of color is profoundly important. These issues, however, are best addressed through concrete actions, not another non-binding commission. The Legislature and the Administration are working on the critical issues raised by this bill, such as the Local Control Funding Formula, healthcare expansion and criminal justice reform. Much more can be done, and I am committed to advancing this work.

b) AB 288 (Holden) College and Career Pathways: This bill authorizes the governing board of a community college district to enter into a College and Career Access Pathways (CCAP) partnership with the governing board of a school district within its immediate service area, as specified, to offer or expand dual enrollment opportunities for students who may not already be college bound or who are underrepresented in higher education. The goal of the agreements is to develop seamless pathways for students from high school to community college for career-technical education or preparation for transfer, improve high school graduation rates, or help high school pupils achieve college and career readiness. The bill includes specific conditions which must be met prior to the adoption of such an agreement. The authority in this measure sunsets on January 1, 2022. Status: Signed by the Governor, Chapter 618, Statutes of 2015.

c) AB 931 (Irwin) New Hire Tax Credit: This bill would have expanded the definition of the term "qualified full-time employee" under the new hire tax credit to include a veteran who has separated from service in the U.S. Armed Forces within the 36 months preceding commencement of employment with a qualified taxpayer. Status: Vetoed by the Governor, 2015. Governor's Veto Message: Despite strong revenue performance over the past few years, the state's budget has remained precariously balanced due to unexpected costs and the provision of new services. Now, without the extension of the managed care organization tax that I called for in special session, next year's budget faces the prospect of over \$1 billion in cuts. Given these financial uncertainties, I cannot support providing additional tax credits that will make balancing the state's budget even more difficult. Tax credits, like new spending on programs, need to be considered comprehensively as part of the budget deliberations.

d) AB 1058 (Atkins) Second Chance Program: This bill establishes the Second Chance Program under the administrative direction of the Department of Corrections for the purpose of investing in community-based programs, services, and initiatives for formerly incarcerated individuals in need of mental health and substance use treatment services. The grant program will be funded through the savings resulting from the implementation of Proposition 47, the Safe Neighborhoods and Schools Act of 2014, and other specified

sources. The bill also extends the sunset on the Social Innovation Financing Program until 2022. Status: Signed by the Governor, Chapter 748, Statutes of 2015.

e) AB 1093 (E. Garcia) Supervised Population Workforce Training Grant Program: This bill expedites the allocation of funding under the existing Supervised Population Workforce Training Grant Program, which is administered through the California Workforce Development Board. Status: Signed by the Governor, Chapter 220, Statutes of 2015. In addition, \$1.5 million was authorized in the 2015-16 Budget for additional funding rounds.

f) AB 1270 (E. Garcia) California Workforce Innovation and Opportunity Act: This bill aligns California statute with the new requirements of the federal Workforce Innovation and Opportunity Act of 2014. The bill sets the foundation for policy changes in 2016 through SB 45 (Mendoza). Status: Signed by the Governor, Chapter 94, Statutes of 2015.

REGISTERED SUPPORT / OPPOSITION:

Support:

California Workforce Association (sponsor)
Association of Regional Center Agencies
California Association of Local Conservation Corps
National Association of Social Workers
San Bernardino County
SIATech California

Opposition:

None Received

Analysis Prepared by: Toni Symonds / J., E.D., & E. / (916) 319-2090

Attachment A includes the bill text. Attachment B is a letter of support from the California Workforce Association.

Recommendation(s)/Next Step(s):

CONSIDER recommending to the Board of Supervisors a position of "Support" on AB 2642 (E. Garcia): Removing Barriers to Employment Act: Initiative, as recommended by the Stephen Baiter, Executive Director of the Workforce Development Board.

Attachments

Attachment A: AB 2642 bill text

Attachment B: CWA letter of support

AMENDED IN ASSEMBLY APRIL 12, 2016

AMENDED IN ASSEMBLY APRIL 4, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2642

**Introduced by Assembly Members Eduardo Garcia, Eggman,
Cristina Garcia, Gomez, and Maienschein
(Coauthors: Assembly Members Chang and Steinorth)
(Coauthor: Senator Wieckowski)**

February 19, 2016

An act to add ~~Chapter 6 (commencing with Section 14600) to Division 7 of the Unemployment Insurance Code, Division 1.4 (commencing with Section 180) to the Labor Code~~, relating to workforce development.

LEGISLATIVE COUNSEL'S DIGEST

AB 2642, as amended, Eduardo Garcia. Removing Barriers to Employment Act: Breaking Barriers to Employment Initiative.

Existing law establishes the Labor and Workforce Development Agency and provides that the agency consists of, among other entities, the California Workforce Investment Board, the Employment Development Department, and the Employment Training Panel. The California Workforce Innovation and Opportunity Act establishes the California Workforce Development Board as the body responsible for assisting the Governor in the development, oversight, and continuous improvement of California's workforce investment system and the alignment of the education and workforce investment systems to the needs of the 21st century economy and workforce. That act requires the establishment of a local workforce development board in each local

workforce development area of the state to, among other things, carry out analyses of the economic conditions in the local region.

This bill would enact the Removing Barriers to Employment Act, which would establish the Breaking Barriers to Employment Initiative within the Labor and Workforce Development Agency. The bill would require the initiative to be led by the Secretary of Labor and Workforce Development and authorizes the secretary to assign all or part of the administration of the initiative to one or more entities within the agency's ~~oversight~~. *oversight, or to authorize another state agency, under specified conditions, to administer a portion of the initiative.* The bill would specify that the purpose of the initiative is to create a grant program ~~to provide funds to workforce investment boards and community-based organizations working in partnership on proposals that~~ assist individuals who have multiple barriers to employment to receive the remedial education and work readiness skills that will help those individuals to successfully participate in training, apprenticeship, or employment opportunities that will lead to self-sufficiency and economic ~~stability~~. *stability, and would set forth the goals of the initiative.* The bill would require the secretary to develop criteria for the selection of grant recipients, as specified, and would require the secretary, by January 1, 2018, *and annually thereafter*, to post a report on the agency's Internet Web site that aggregates information provided by grant recipients. The bill would authorize the secretary, when implementing the initiative, to fund a project that uses a model that was previously funded as a pilot project under certain programs if specified criteria are met. The bill would make the funding of the initiative subject to an appropriation by the Legislature for that purpose and would make implementation of the initiative contingent on the secretary notifying the Department of Finance that sufficient moneys have been appropriated.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Chapter 6 (commencing with Section 14600) is~~
2 ~~added to Division 7 of the Unemployment Insurance Code, to read:~~
3
4 ~~CHAPTER 6. REMOVING BARRIERS TO EMPLOYMENT ACT~~
5

1 SECTION 1. Division 1.4 (commencing with Section 180) is
2 added to the Labor Code, to read:

3
4 DIVISION 1.4. REMOVING BARRIERS TO EMPLOYMENT
5 ACT
6

7 ~~14600.~~

8 180. The Legislature finds and declares all of the following:

9 (a) The economy in California continues to improve as shown
10 by lower unemployment rates and *higher* job growth, but poverty
11 is still an issue in many of our cities and among many of our
12 citizens. The California Poverty Measure reported in 2015 that 78
13 percent of Californians in poverty live in families with at least one
14 adult working, with 69 percent of those working full time.
15 Low-income families continue to struggle to pay for the basic cost
16 of supporting their families. With low wages and lack of job skills,
17 this target population falls further behind and cannot escape
18 poverty.

19 (b) Lack of formal education, low English literacy, and
20 lower-level job skills prevent upward mobility in pay and job
21 stability. There is a need for improved access and funding to
22 provide “career pathways” services, particularly for the poor.

23 (c) Increased funding for English language improvement
24 training, *basic skills* and adult education, high school diploma and
25 GED acquisition, skills training, work experience, on-the-job
26 training, earn-as-you-learn, industry certifications, mentoring, case
27 management, and more is needed to bridge the gap to gainful
28 employment for the more difficult to reach in our population.

29 (d) Local community-based organizations, government agencies,
30 and workforce investment boards throughout California struggle
31 to provide adequate services to the increasing number of poor
32 residents who need career pathways services. In particular, funding
33 is needed for case management, career guidance, and other services
34 that enhance training/job retention and the ability to meet family
35 basic expense needs while pursuing a career opportunity.

36 (e) Special emphasis is needed to make sure that programs reach
37 those among us with the most difficult needs with the goal of
38 preparing those persons for training, educational, ~~apprenticeship~~
39 *apprenticeship*, or employment opportunities.

1 ~~14600.5.~~

2 *180.1* As used in this ~~chapter~~, *division*, “Breaking Barriers to
3 Employment Initiative” or “initiative” means the Breaking Barriers
4 to Employment Initiative established in this chapter.

5 ~~14601.~~

6 *180.2* (a) This ~~chapter~~ *division* establishes the Breaking
7 Barriers to Employment Initiative within the agency. The initiative
8 shall be led by the Secretary of Labor and Workforce Development,
9 that may assign all or part of the administration of the initiative to
10 one or more entities within the agency’s oversight. *The Secretary*
11 *may authorize another state entity that has experience with serving*
12 *one or more of the populations identified in subdivision (e) to*
13 *administer a portion of the initiative, if the other state entity agrees*
14 *to meet all the requirements of this division and to provide the*
15 *Secretary with the information necessary to meet the reporting*
16 *requirements.*

17 (b) (1) The purpose of the initiative is to ~~provide funds to~~
18 ~~workforce investment boards and community-based organizations~~
19 ~~that submit joint proposals that~~ assist individuals who have multiple
20 barriers to employment to receive the remedial education and work
21 readiness skills that will help them to successfully participate in
22 training, apprenticeship, or employment opportunities that will
23 lead to self-sufficiency and economic stability.

24 (2) *The initiative operationalizes an innovative model of effective*
25 *collaboration between two important workforce partners for the*
26 *benefit of populations that routinely face barriers to employment.*
27 *By leveraging the experience of community-based organizations*
28 *to meet the unique needs of certain groups with the resources of*
29 *the workforce boards, the initiative creates an on-ramp to groups*
30 *that have been historically disconnected from traditional programs.*
31 *The role of the lead community-based organization is to use its*
32 *expertise in working with the targeted populations to remediate*
33 *education and workforce readiness skills and to collaborate with*
34 *the lead workforce board to transition clients to career pathways*
35 *and sector strategies developed by local workforce boards. The*
36 *role of the lead workforce investment board, at a minimum, is to*
37 *collaborate with and assist the lead community-based organization*
38 *in designing a program that supports the transition of participants*
39 *who have successfully achieved the goals and objectives of the*

1 *grant proposal to career pathways and sector strategies developed*
2 *by local workforce boards.*

3 (c) In developing the initiative, the Secretary of Labor and
4 Workforce Development or his or her delegate shall consult with
5 public and private stakeholders, including nonprofit
6 community-based organizations, workforce development boards,
7 local governments, and other entities that serve individuals who
8 face barriers to employment.

9 (d) Funding for the initiative shall be subject to appropriation
10 by the Legislature for that purpose. Implementation of the initiative
11 is contingent upon the Secretary of Labor and Workforce
12 Development notifying the Department of Finance that sufficient
13 moneys have been appropriated and deposited in the Consolidated
14 Work Program Fund.

15 (e) *The goals of the initiative shall include all of the following:*

16 (1) *Individuals who face multiple barriers to employment take*
17 *measurable steps to remediate education and workforce readiness*
18 *skills.*

19 (2) *Partnerships between community-based organizations and*
20 *workforce development boards, community colleges, and other*
21 *providers of quality education and training are demonstrably*
22 *strengthened in ways that benefit their client's ability to continue*
23 *to access services that ultimately lead clients utilizing career*
24 *pathways and sector strategies developed by local workforce*
25 *boards.*

26 (3) *Community-based organizations increase their capacity to*
27 *achieve and measure results.*

28 (e)

29 (f) The outcomes of the initiative shall be reported pursuant to
30 Section ~~14601.2~~ 180.3.

31 ~~14601.2.~~

32 180.3. The Secretary of Labor and Workforce Development
33 shall develop criteria for the selection of grant recipients that meet
34 all of the following:

35 (a) Outreach and technical assistance shall be provided to
36 prospective applicants, especially in rural and small population
37 areas.

38 (b) (1) Grants shall be awarded on a competitive basis. The
39 program shall include provisions to ensure a range of targeted
40 populations and geographic locations receive training opportunities.

1 (2) Applications shall be evaluated based on the lead
2 community-based organization's demonstrated capacity to
3 successfully deliver previous programs to the targeted populations
4 who the applicant is proposing to serve pursuant to subdivisions
5 (d) and (e).

6 (3) Each grant proposal shall further the initiative goals, as
7 identified in subdivision (e) of Section 180.2.

8 (4) Eligible activities for grant funds shall include, but are not
9 limited to, English language improvement training, basic skills
10 and adult education, high school diploma and GED acquisition,
11 skills training, work experience, on-the-job training,
12 earn-as-you-learn, industry certifications, mentoring, and other
13 remedial education and work readiness skills.

14 (5) Grant proposals funded through the initiative shall use at
15 least 90 percent of their funds for direct services to the clients who
16 face multiple barriers to employment.

17 (c) Each application shall include at least one *lead* workforce
18 investment board and one *lead* community-based organization.
19 An application that serves clients across one or more workforce
20 investment areas shall include ~~a~~ either of the following:

21 (1) Documentation of the existence of a current memorandum
22 of understanding with each workforce board within the proposed
23 service area.

24 (2) A letter of acknowledgment from each workforce board
25 within the proposed service area, but need not include a specific
26 role for all of the workforce investment boards in that area.
27 ~~However, all applications shall have at least one workforce board~~
28 ~~and one community-based organization working in partnership.~~
29 *Obtaining the letter of acknowledgment shall be the responsibility*
30 *of the lead workforce investment board.*

31 (d) Applicants shall apply for funds to serve one or more
32 targeted populations in one or more neighborhoods, local
33 jurisdictions, regions, or statewide. Each application shall include
34 ~~how programs~~ *grant proposals* are designed to complement the
35 work of, and integrate the individuals being served with, the
36 workforce development boards within the proposed service area.

37 (e) The grant proposal shall demonstrate how the grant recipient
38 will address the needs of one or more of the following populations:

39 (1) Youths who are disconnected from the education system or
40 employment.

1 (2) Women seeking training or education to move into
2 nontraditional fields of employment.

3 (3) Workers displaced by the movement of an employer or those
4 who are long-term unemployed.

5 (4) Unskilled or under-skilled, low-earning workers looking to
6 advance into better-paying employment opportunities.

7 (5) Persons for whom English is not their primary language.

8 (6) Economically disadvantaged persons who face barriers to
9 reaching training or apprenticeship opportunities for sustainable
10 careers.

11 (7) CalWORKS participants.

12 (8) Persons who are incarcerated and soon to be released or
13 formerly incarcerated.

14 (9) Armed services veterans who face barriers due to skills that
15 are not applicable to employment, training, apprenticeship
16 opportunities in the region in which they live, or because of mental
17 health, health, or other barriers that serve as impediments to those
18 opportunities.

19 (10) Native Americans or migrant, seasonal farmworkers.

20 (11) People with developmental or other disabilities.

21 (f) The grant proposal shall explain the specific purpose of the
22 grant funds and define the general methodology and training
23 methods proposed to be used.

24 (g) (1) The proposal shall identify baseline criteria and metrics
25 by which the overall success of the ~~grant program~~ *proposal* can
26 be ~~evaluated~~: *evaluated, consistent with the initiative goals as*
27 *identified in subdivision (e) of Section 180.2.* The proposal shall
28 also explain the manner in which the progress of the individuals
29 participating in the program will be monitored during the grant
30 period.

31 (2) One component of the grant proposal shall provide for a
32 preservice education and training assessment, which shall form
33 the baseline for measuring program performance. A prior
34 assessment may be used if, in the determination of the Secretary
35 of Labor and Workforce Development, its results are accurate and
36 appropriate for the ~~proposed program~~: *grant proposal*.

37 (3) Measurements of success shall be based on the targeted
38 population and the baseline measurements set through the
39 individual client ~~assessment~~: *assessment, consistent with the*

1 *initiative goals as identified in subdivision (e) of Section 180.2.*

2 These metrics may include, but are not limited to:

3 (A) The number of participants in the program who have
4 completed a high school diploma or received a GED.

5 (B) The number of participants in the program who have
6 completed a remedial education program.

7 (C) The number of participants in the program who have
8 completed a work readiness program.

9 (D) The number of participants who have received assistance
10 to enroll their children in after school programs while the program
11 participant enrolls in secondary or postsecondary education or
12 maintains employment.

13 (E) The number of participants who have completed a certified
14 drug treatment or mental health program.

15 (F) The number of participants who have matriculated to a
16 preapprenticeship or apprenticeship program.

17 (G) *The number of participants who passed the Ability to Benefit*
18 *test and enrolled into a career pathway program, as defined in the*
19 *federal Higher Education Act (20 U.S.C. Sec. 1091(d)(2)).*

20 (h) (1) Key features of the grant shall be provided in a
21 memorandum of understanding between the applicants and the
22 agency, including, but not limited to, the purpose of the grant,
23 expected outcomes, the oversight and monitoring process, and
24 reporting requirements.

25 (2) As a condition of receiving funds, a grant recipient shall
26 agree to provide information to the Secretary of Labor and
27 Workforce Development that is determined by the secretary as
28 necessary to meet all reporting requirements.

29 (i) On at least an annual basis and upon completion of the grant
30 period, grant recipients shall report to the Secretary of Labor and
31 Workforce Development information regarding their use of funds,
32 workforce training outcomes, and any other information required
33 by the secretary.

34 (j) By January 1, 2018, *and each year thereafter*, the Secretary
35 of Labor and Workforce Development shall post a report on the
36 agency's Internet Web site that aggregates the information provided
37 by the grant recipients, including, but not limited to, the overall
38 success of the grant programs.

1 ~~14601.3.~~

2 180.4. In implementing the initiative, the Secretary of Labor
3 and Workforce Development may fund a *full-scale* project that
4 uses a model that was previously funded as a pilot project through
5 the Workforce Accelerator, the Supervised Population Workforce
6 Training Program, SlingShot, or other existing programs, to the
7 extent that the goals, measures, and metrics are sufficiently aligned,
8 so as to:

9 (a) Serve the same client base.

10 (b) Address the needs of individuals who face multiple barriers
11 to employment to receive remedial education and work readiness
12 skills.

13 (c) Have an end goal of preparing those individuals for further
14 training that results in apprenticeship or middle-skill employment
15 opportunities. Eligible applicants for programs under this section
16 shall exclusively be joint applications from one or more workforce
17 investment boards and one or more community-based
18 organizations.



April 11, 2016

The Honorable Eduardo Garcia, Chair
Assembly Committee on Jobs, Economic Development
and the Economy
State Capitol
Sacramento, CA 95814

RE: AB 2642/SUPPORT

Dear Assembly Member Garcia:

The California Workforce Association (CWA) is pleased to write to in strong support of your AB 2642, legislation designed to help those facing barriers to employment and participation in the economy. The California Workforce Association is the premier organization for providing capacity building, leveraging partnerships, and facilitating dialogue to strengthen the Local Workforce System in the state. We estimate that our 48 local Workforce Development Boards/members served over 1 million customers and tens of thousands of businesses over the last year.

Poverty has become one of our state's largest problems. Those existing at poverty levels face barriers to participation in California's workforce, and the walls are higher for those who are less educated and lacking skills. Some of the data on California's poverty problem are cited in the following:

- ✓ The poverty rate in California is 23.4 percent, though it is higher for children (25.1 percent), high school dropouts (53.9 percent) and those with only a high school diploma (33.2 percent). (Stanford Center on Poverty & Inequality, "Why Is There So Much Poverty In California?")
- ✓ 4.5 Million Californians over the age of 25 have an "educational attainment" of less than high school graduation. (American Community Survey, 2010-2014.)
- ✓ 823,000 families in California earn less than \$15,000 annually. (American Community Survey, 2010-2014.)
- ✓ 2 in 5 households headed by single mothers who work full time are below the Real Cost Measure. (United Way, 2015.)
- ✓ 26% of Latinos, 25% of African-Americans, and 24% of Native Americans live under poverty level (American Community Survey, 2010-2014.)

- ✓ 4.8% of adults in California have a serious mental illness (California Health Care Almanac, July 2013)

While California certainly provides aid for subsistence and programs aimed at helping people gain education through community college and career technical education initiatives, as well as federally-authorized workforce development activities, funding cuts in the recent decade and performance standards have had an effect of leaving behind certain populations. Some examples of the populations falling under the radar of the systems available include:

- Youths who are disconnected from education or employment;
- Displaced and long-term unemployed workers;
- Soon-to-be and formerly incarcerated;
- Veterans who face skills, health and other barriers;
- People with developmental or other disabilities;
- Unskilled or under-skilled, low wage earners who might wish to advance to better-paying employment opportunities;
- Migrant and seasonal farmworkers and their families;
- Native Americans;
- Women seeking education or training to move into non-traditional fields of employment;
- Single parents who need help in navigating all aspects of their lives that keep them from self-improvement and participation;
- CalWORKS participants; and
- Many others.

Studies show, but it is also obvious, the longer these populations stay in poverty without the tools to move forward, the harder the drag will be on the State Budget and on our ability to have a ready-and-waiting workforce to fill all levels of jobs required in the economy.

- In a study last year, the Centre for Economic Research calculated that unfilled job openings cost U.S. businesses \$180 billion per year.
- According to the National Skills Coalition and the National Community Survey, there are projected to be 4.4 million job openings for middle skill employees in the next ten years.
- The cost to state and local governments in welfare dollars is over \$36 billion per year.

While Workforce Development Boards are federally-authorized and funded for the purpose of meeting the needs of workers and employers in regions throughout California, the emphases of performance indicators and the dearth of adequate funding has resulted in some of these populations being left behind, with no real tools for education, skills attainment and upward movement toward opportunity.

AB 2642 addresses by calling for the formation of local partnerships between/among Workforce Development Boards (WDBs) and community-based organizations (CBOs) for the purpose of grants implemented by the State's Labor Agency to fund strategies and direct services directly aimed at the needs of these "below-the-radar" populations on a local, regional or state-wide basis designed

to remove the barriers each faces in getting into the mainstream systems that can move them upward.

These populations can exist in a consistent way throughout the state; other times, they exist in localized pockets. The structure of AB 2642 allows flexibility for proposals to address either, but in a way that ensures that WDBs and CBOs are maximizing their resources to prepare participants for ultimate success---that of removing barriers and providing education and/or skills necessary for participants to move into apprenticeships, community college, career pathways, and other traditional employment programs resulting in living wage jobs and professions.

There is no question that this population exists. That is validated by the data and the experiences of WDBs and CBOs with which we have been partnering on this legislation. It is also clear they are being left behind by current efforts. If we don't reach out through a vehicle like your "Removing Barriers to Employment Act," we fear that we will doom a generation of people to not only not being able to climb the ladder upward, they will never even know the ladder was there.

All of the 48 members of the California Workforce Association stand ready to assist you in this effort, and we are pleased to learn there is already bipartisan recognition and support of the problem and need to address it.

If we may be of further assistance, please do not hesitate to contact our lobbyists, Carl London and Tony Gonzalez of Rose & Kindel/Grayling at (916) 441-1034, ext. 2615, or me or Nick Loret de Mola at (916) 325-1610.

Thank you for your leadership and consideration in this matter.

Sincerely,



Bob Lanter
Executive Director

cc: Honorable Members, Assembly JEDE Committee
Toni Symonds, Chief Consultant, JEDE Committee
Julia King, Assembly Republican Caucus
Adam Peck, CWA President
Jason Buckingham, CWA GAC Chair
Carl London/Tony Gonzalez, Rose & Kindel/Grayling
Nick Loret de Mola, CWA



Contra Costa County Board of Supervisors

Subcommittee Report

LEGISLATION COMMITTEE

5.

Meeting Date: 05/09/2016
Subject: AB 2466 (Weber) Voting: Felons
Submitted For: LEGISLATION COMMITTEE,
Department: County Administrator
Referral No.: 2016-13
Referral Name: AB 2466 (Weber) Voting: Felons
Presenter: Lara DeLaney **Contact:** L. DeLaney, 925-335-1097

Referral History:

This bill was referred to the Legislation Committee by staff of Supervisor Andersen's office, as requested by Amanda Le, Policy Associate for ACLU of San Diego and Imperial Counties.

Referral Update:

Assembly Bill (AB) 2466 (Weber) Voting: Felons would clarify existing California law on voter eligibility and guarantees a more inclusive and participatory electorate. The bill would require an election statement that a person entitled to register to vote must be a United States citizen, a California resident, not currently in state or federal prison or on state parole for a felony and at least 18 years of age.

Status: 04/13/2016 From ASSEMBLY Committee on ELECTIONS AND REDISTRICTING: Do pass to Committee on APPROPRIATIONS. (5-2)

Bill Analysis 04/11/2016:

SUMMARY: Conforms state law to a recent Superior Court ruling in Scott v. Bowen, in which the court found that individuals on post-release community supervision (PRCS) and mandatory supervision are eligible to vote under Section 2, Article II of the California Constitution, as specified. Makes other significant changes to voter eligibility provisions of law, as specified. Specifically, this bill:

1) Provides that a person who is not imprisoned or on parole for the conviction of a felony, instead of a person who is not in prison or on parole for the conviction of a felony, is eligible to register to vote, as specified. Provides that the following definitions apply to these provisions:

a) Defines "imprisoned" to mean currently serving a state or federal prison sentence.

b) Defines "parole" to mean a term of supervision by the Department of Corrections and Rehabilitation (CDCR).

c) Provides that "conviction" does not include a juvenile adjudication made pursuant existing law.

2) Makes changes to statements required to be included in printed literature and media announcements used in county programs designed to encourage registration of electors and requires the statements to state that a person entitled to register to vote must be a United States citizen, a California resident, at least 18 years of age at the time of the election, and not currently in state or federal prison or on state parole for the conviction of a felony, instead of not in prison or on parole for the conviction of a felony,

3) Makes changes to statements required to be sent to county elections officials, on the basis of records from the courts, that shows the names, addresses, and dates of birth of all persons who have been convicted of felonies since the clerk's last report, and instead requires the statement to show the names, addresses, and dates of birth of all persons who have been committed to state prison as a result of the conviction of a felony since the clerk's last report.

EXISTING LAW:

1) Permits a person who is a United States citizen, a resident of California, not in prison or on parole for the conviction of a felony, and at least 18 years of age at the time of the next election, to register to vote.

2) Requires the county elections official to cancel the affidavits of registration of those persons who are imprisoned or on parole for the conviction of a felony.

3) Requires the Legislature to provide for the disqualification of electors while imprisoned or on parole for the conviction of a felony.

4) Requires the clerk of the superior court in each county to furnish the chief elections official of the county, not less frequently than the first day of April and the first day of September of each year, with a statement showing the names, addresses, and dates of birth of all persons who have been convicted of felonies since the clerk's last report.

5) Requires a program adopted by a county that is designed to encourage the registration of electors to print literature and media announcements made in connection with these programs that contain the following statement, "A person entitled to register to vote must be a United States citizen, a California resident, not in prison or on parole for the conviction of a felony, and at least 18 years of age at the time of the election." Permits a county elections official to continue to use existing materials before printing new or revised materials required by any changes to these provisions.

FISCAL EFFECT: Unknown. State-mandated local program: contains reimbursement direction.

COMMENTS:

1) Purpose of the Bill: According to the author:

The Criminal Justice Realignment Act of 2011 (CJRA) created three new categories of sentencing for people convicted of low-level felonies: mandatory supervision, post-release community supervision, and a term in county jail. These new categories caused confusion for local elections officials and voters. Last year, in *Scott v. Bowen*, the issue of the voting rights of people sentenced under the first two categories of local supervision was finalized, and with the support of the Secretary of State, more than 50,000 people under mandatory and post-release community supervision had their voting rights restored.

AB 2466 amends the Elections Code to reflect the decision in *Scott v. Bowen* and clarifies that the third category of CJRA sentencing - a term in county jail - likewise does not strip people of their constitutional right to vote. This clarification completes the restoration of the law prior to the CJRA: only those serving a state-prison sentence or on parole and under CDCR supervision lose the right to vote.

Finally, civic participation can be a critical component of re-entry and has been linked to reduced recidivism. No eligible voter should be kept from fulfilling their responsibility and civic duty due to ambiguity in the law.

2) California Disenfranchisement Laws: Article II, Section 4 of the California Constitution states that "[the] Legislature shall prohibit improper practices that affect elections and shall provide for the disqualification of electors while mentally incompetent or imprisoned or on parole for the conviction of a felony." Elections Code Section 2101 is the statute that implements Article II, Section 4 of the California Constitution. Section 2101 states that "[a] person entitled to register to vote shall be a United States citizen, a resident of California, not in prison or on parole for the conviction of a felony, and at least 18 years of age at the time of the next election." Moreover, under California law, any person who is imprisoned or on parole for the conviction of a felony is prohibited from voting and elections officials are required to cancel the voter registrations of such individuals. However, a person who is on probation for conviction of a felony is permitted to vote. While it would seem that the determination of whether an individual is eligible to vote is fairly straightforward, there has been a great deal of confusion about what constitutes being "imprisoned" for the conviction of a felony.

For instance, it is not uncommon for a person who has been convicted of a felony to be ordered to serve time in county jail as a condition of probation. To the extent that a person is serving time in county jail as a condition of probation, that person is not considered to be "imprisoned" for the conviction of a felony under California law, and thus, that person remains eligible to vote, even while he or she is in the county jail.

On the other hand, due to a variety of reasons, a person who has been convicted of a felony and sentenced to serve time in state prison may nonetheless serve part or all of his or her sentence in a county or city jail due to a contractual agreement with the state. In such a circumstance, that person is not eligible to vote, and the elections official should cancel that person's registration, since he or she is not on probation - but rather has been convicted of a felony and was sentenced to state prison. The fact that the individual is serving that prison time in a local jail under a contractual arrangement is not relevant in determining whether that person has the ability to register to vote or to vote.

These interpretations of California's disenfranchisement laws were affirmed by the Court of Appeal for the State of California, First Appellate District, Division One, in *League of Women Voters of California v. McPherson* (2006), 145 Cal.App.4th 1469. In that case, the court noted that "where a probationer is ordered to serve time in a local facility because either imposition or execution of sentence has been suspended, he or she has not been imprisoned for the conviction of a felony, but has been confined as a condition of probation."

3) Criminal Justice Realignment & Inmate Voting Eligibility: In 2011, California passed a series of bills known as the CJRA. Although prior to realignment, some felony sentences were served in county or city jails, most felony sentences were served in state prison. Under realignment, certain lower-level felony offenders, who would have been sentenced to state prison, are now sentenced to serve their time in custody in county jail. Additionally, after release from custody and depending on the offense and sentence, realignment changed the state's parole system and created the option for an inmate to be released to a

term of "post-release community supervision (PRCS)" (under the control of the local probation department) or mandatory supervision. Thus, the enactment of the CJRA has caused an even greater deal of confusion and raised questions about the eligibility to vote for convicted felons sentenced to these new programs. Specifically, the question arose as to whether individuals on PRCS and mandatory supervision were considered "on parole" and whether person serving a felony sentence in county jail were "imprisoned" for the purposes of Section 4, Article II of the California Constitution and Section 2101 of the Elections Code.

According to court documents, the Secretary of State's (SOS) office, at the request of county elections officials, issued a memorandum on December 5, 2011 which analyzed CJRA and its effect on voter eligibility. The SOS's office concluded that realignment "does not change the voting status of offenders convicted of CJRA-defined low-level felonies, either because they serve their felony sentences in county jail instead of state prison or because the mandatory supervision that is a condition of their release from prison is labeled something other than 'parole.' Offenders convicted of CJRA-defined low-level felonies continue to be disqualified from voting while serving a felony sentence in county jail, while at the discretion of the court serving a concluding portion of that term on county-supervised probation, or while they remain under mandatory 'post release community supervision' after release from state prison."

Voting rights groups filed a lawsuit against the SOS arguing that realigned individuals have a right to vote. In March of 2012, a lawsuit was filed in the First District Court of Appeal to clarify that people who have been sentenced for low-level, non-violent offenses under the CJRA are entitled to vote in the 2012 elections and beyond (*All of Us or None et al. v. Bowen et al.* (2012) No. A134775). On May 17, 2012, the First District Court of Appeal summarily denied the petition, meaning that it refused to hear the case or issue an opinion. In response, petitioners filed another lawsuit in the California Supreme Court to review the case and decide the case on an expedited basis (*All of Us or None v. Bowen* (2012) No. S202885). The Supreme Court, which has the discretion to either hear the case, order the Court of Appeal to decide it, or deny review, denied review on July 25, 2012.

In February of 2014, a lawsuit was filed in the Alameda Superior Court challenging the SOS's memorandum, claiming that individuals on PRCS and mandatory supervision are eligible to vote under Article II, Section 4 of the California Constitution (*Scott et al. v. Bowen* (2014) No. RG14-712570).

In May of 2014, the Superior Court issued a final judgment rejecting the interpretation of Realignment in SOS's memorandum. The Superior Court held "as a matter of law that California Constitution Article II, Section 2 and Elections Code 2101, require the State of California to provide all otherwise eligible persons on [mandatory supervision and PRCS] the same right to register to vote and to vote as all otherwise eligible persons." The court concluded that restoring voting rights of persons under PRCS and or mandatory supervision is consistent with the Realignment policy goal to promote reintegration of low-level offenders back into the community. In addition, the court relied upon the long-held principle in California law requiring courts "to give every reasonable presumption in favor of the right of people to vote" and to "not engage in any construction of an election law that would disenfranchise any voter if the law is reasonably susceptible of any other meaning." The Superior Court decision, however, did not address the conclusion in SOS's memorandum that persons convicted of a felony and serving time in county jail under Realignment are ineligible to vote.

This bill conforms state law to the Superior Court ruling and makes other significant changes to voter eligibility provisions of law. First, this bill codifies the meaning of the term parole as determined by the Superior Court ruling. Specifically, this bill defines "parole" to

mean a term of supervision by the Department of Corrections and Rehabilitation.

Secondly, this bill makes changes to Elections Code Section 2101, the implementing statute for Article II, Section 4 of the California Constitution that states "[the] Legislature shall prohibit improper practices that affect elections and shall provide for the disqualification of electors while mentally incompetent or imprisoned or on parole for the conviction of a felony." Specifically, this bill permits a person who is a United States citizen, a resident of California, at least 18 years of age at the time of the next election, and not imprisoned, instead of in prison, or on parole for the conviction of a felony, to register to vote. This bill defines the term "imprisoned" to mean currently serving in a state or federal prison sentence and provides that the term "conviction" does not include a juvenile adjudication made pursuant existing law. These changes to voter eligibility provisions of law seek to address the questions not discussed in the court ruling of whether a person serving a felony sentence in county jail were "imprisoned" for purposes of Section 4, Article II of the California Constitution and Section 2101 of the Elections Code and persons convicted of a felony and serving time in county jail under Realignment are ineligible to vote.

4) Updated Secretary of State Memorandum: In June of 2014, the Superior Court issued a writ of mandate ordering the SOS to withdraw the previous memorandum concerning voting rights of persons subject to sentencing under the CJRA and to notify elections officials that it had been withdrawn.

In August of 2015, Secretary of State Alex Padilla announced an end to the appeal of Scott v Bowen and complied with the Superior Court decision pursuant to a settlement of the case with the plaintiffs. In accordance with the writ of mandate, the SOS sent out a new memorandum, which served as notification to elections officials that the previous memorandum had been withdrawn. Additionally, according to the new memorandum, the SOS also prepared new language for the paper and online affidavit of voter registration and updated the language contained in other voting materials and voter education materials consistent with the Superior Court ruling and settlement. The revised voter materials specify the voting rights of persons subject to two categories of county-supervised non-custodial post-imprisonment release programs under Realignment as follows:

Post Release Community Supervision (PRCS): A person released from prison on or after October 1, 2011, for a conviction of a crime defined by Realignment as a low-level felony, and who is released from state prison to county-supervised PRCS, is eligible to register and vote.

Mandatory Supervision: At the time a judge sentences a person to county jail for the conviction of a specified low-level felony, Realignment authorizes a judge to order that the person be released and supervised by a probation officer for a specified, concluding portion of the term. Following release from county jail and during the period of supervision, this person is eligible to register and vote.

6) Changes to Printed Materials: Current law requires a program adopted by a county that is designed to encourage the registration of electors to print literature and media announcements made in connection with these programs that contain the following statement, "A person entitled to register to vote must be a United States citizen, a California resident, not in prison or on parole for the conviction of a felony, and at least 18 years of age at the time of the election." County elections officials are permitted to continue to use existing materials before printing new or revised materials required by any changes to these provisions.

Existing law also requires the clerk of the superior court in each county to furnish the chief elections official of the county, not less frequently than the first day of April and the first day of September of each year, with a statement showing the names, addresses, and dates

of birth of all persons who have been convicted of felonies since the clerk's last report.

This bill makes changes to these materials. Specifically, this bill requires the statements included in printed literature and media announcements used in county programs designed to encourage registration of electors to state that a person entitled to register to vote must be a United States citizen, a California resident, not currently in state or federal prison or on state parole for the conviction of a felony, instead of not in prison or on parole for the conviction of a felony, and at least 18 years of age at the time of the election. Additionally, this bill requires statements sent to county elections officials from the clerk of the superior court to show the names, addresses, and dates of birth of all persons who have been committed to state prison as a result of the conviction of a felony since the clerk's last report instead of showing the names, addresses, and dates of birth of all persons who have been convicted of felonies since the clerk's last report.

5) Arguments in Support: One of the sponsors of this bill, American Civil Liberties Union of California, writes:

The meaning of the terms "imprisoned" and "parole," however, has been the subject of ongoing litigation and confusion, particularly as criminal justice reforms and sentencing laws have evolved. Most recently, voter eligibility was the subject of litigation following the passage of the Criminal Justice Realignment Act of 2011 (CJRA), which created three new categories of sentencing for people convicted of low-level felonies: mandatory supervision, post-release community supervision, and a term in county jail.

While courts have consistently interpreted the constitutional provision in favor of the enfranchisement of voters, California's voter eligibility laws cannot be subject to change, litigation, and clarification every time a sentencing reform is enacted. Elections officials and the Secretary of State need guidance and clarity in order to ensure consistent application of voter eligibility law and accurate maintenance of the voter file. Without clarification, the state is left with the potential for county-by-county interpretations, widespread confusion, and the actual and de facto disenfranchisement of voters.

AB 2466 would thus amend the Elections Code to codify the recent decision in *Scott v. Bowen*, ensuring that more than 50,000 people under mandatory and post-release community supervision can vote. AB 2466 also clarifies that the third category of CJRA sentencing - a term in county jail - likewise does not strip people of their right to vote. Finally, AB 2466 would clarify the information courts provide to elections officials.

6) Arguments in Opposition: In opposition, the California State Sheriff's Association writes:

Longstanding California law has provided that imprisoned felons are excluded from voting. The people have consistently determined that by virtue of a felon's crime he or she is temporarily denied the right to participate in elections. The notion that felons have shown a disregard for the laws and their disobedience should exclude them from political decision-making.

Unfortunately, AB 2466 disregards this thought process and allows certain incarcerated felons to vote. This bill "restores" a convicted felon's voting rights if he or she happens to be serving time in a county jail. When Realignment altered where thousands of felons would be housed, it did not change the felony status of their crimes. A felony is still a felony regardless of where the felon is housed. As such, to allow the restoration of a convicted felon's voting rights based on his or her custodial location is not only inconsistent but insulting to law-abiding citizens.

7) Previous Legislation: AB 938 (Weber) from 2014, was amended after passing out of Assembly Elections Committee to address a different issue.

REGISTERED SUPPORT / OPPOSITION:

Support:

All of Us or None (co-sponsor)
American Civil Liberties Union of California (co-sponsor)
Asian Americans Advancing Justice - California (co-sponsor)
Lawyers' Committee for Civil Rights of the San Francisco Bay Area (co-sponsor)
Legal Services for Prisoners with Children (co-sponsor)
League of Women Voters of California (co-sponsor)
Mexican American Legal Defense and Educational Fund (co-sponsor)
Alliance of Californians for Community Empowerment
Anti-Defamation League
Brennan Center for Justice
California Association of Nonprofits
California Calls
California Catholic Conference of Bishops
California Coalition for Women Prisoners
California Immigrant Policy Center
California Public Defenders Association
Californians for Safety and Justice
Californians United for a Responsible Budget
Center on Juvenile and Criminal Justice
Chinese for Affirmative Action
Friends Committee on Legislation of California
Further The Work
Homeboy Industries
Justice Not Jails
Law Foundation of Silicon Valley
Mi Familia Vota
NAACP Legal Defense and Educational Fund, Inc.
National Council of La Raza
A New PATH
PICO California
Pillars of the Community
Project Vote
Public Defender of the City and County of San Francisco Jeff Adachi
Rock the Vote
Root & Rebound
Rubicon Programs
San Diego La Raza Lawyers Association
Voto Latino
Youth Law Center

Opposition:

California State Sheriff's Association

Analysis Prepared by: Nichole Becker / E. & R. / (916) 319-2094

Attachment A includes the bill text. Attachment B is a fact sheet on the bill.

Recommendation(s)/Next Step(s):

CONSIDER recommending to the Board of Supervisors a position on AB 2466 (Weber): Voting:
Felons.

Attachments

Attachment A: AB 2466 bill text

Attachment B: AB 2466 fact sheet

AMENDED IN ASSEMBLY APRIL 6, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2466

Introduced by Assembly Member Weber
(Principal coauthor: Senator Mitchell)

February 19, 2016

An act to amend Sections 2101, 2106, and 2212 of the Elections Code, relating to voting.

LEGISLATIVE COUNSEL'S DIGEST

AB 2466, as amended, Weber. Voting: felons.

The California Constitution requires the Legislature to provide for the disqualification of electors while mentally incompetent or imprisoned or on parole for the conviction of a felony. Existing law provides that a person is entitled to register to vote if he or she is a United States ~~citizens~~, *citizen*, a resident of California, not imprisoned or on parole for the conviction of a felony, and at least 18 years of age at the time of the next election.

This bill, for purposes of determining who is entitled to register to vote, would define imprisoned as currently serving a state or federal prison sentence and would define parole as a term of supervision by the Department of Corrections and Rehabilitation. The bill would clarify that conviction does not include a juvenile adjudication.

Existing law requires any program adopted by a county pursuant to certain provisions, that is designed to encourage the registration of electors, with respect to any printed literature or media announcements made in connection with the program to contain a statement that a person entitled to register to vote must be a United States citizen, a California

resident, not in prison or on parole for conviction of a felony, and at least 18 years of age at the time of the election.

This bill would instead require that the statement, as described above, state that a person entitled to register to vote must be a United States citizen, a California resident, not currently in state or federal prison or on state parole for the conviction of a felony, and at least 18 years of age at the time of the election. By requiring a county to change the statement included as part of its voter registration program, as described above, the bill would impose a state-mandated local program.

Existing law requires the clerk of the superior court of each county, on the basis of the records of the court, to furnish to the chief elections official of the county, at least on April 1 and September 1 of each year, a statement showing the names, addresses, and dates of birth of all persons who have been convicted of felonies since the clerk's last report. Existing law requires the elections official to cancel the affidavits of registration of those persons who are currently imprisoned or on parole for the conviction of a felony.

This bill would instead require that the statement furnished by the clerk of the superior court of each county to the county elections official show the names, addresses, and dates of birth of all ~~person~~ persons who have been committed to state prison as the result of the conviction of a felony since the clerk's last report.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 2101 of the Elections Code, as enacted
- 2 by Section 2 of Chapter 920 of the Statutes of 1994, is amended
- 3 to read:
- 4 2101. (a) A person entitled to register to vote shall be a United
- 5 States citizen, a resident of California, not imprisoned or on parole

1 for the conviction of a felony, and at least 18 years of age at the
2 time of the next election.

3 (b) ~~(1)~~ For purposes of this section the following definitions
4 apply:

5 ~~(A)~~

6 (1) "Imprisoned" means currently serving a state or federal
7 prison sentence.

8 ~~(B)~~

9 (2) "Parole" means a term of supervision by the Department of
10 Corrections and Rehabilitation.

11 ~~(2) For purposes of this section, "conviction" does not include~~
12 ~~a juvenile adjudication.~~

13 (3) "*Conviction*" does not include a juvenile adjudication made
14 pursuant to Section 203 of the Welfare and Institutions Code.

15 SEC. 2. Section 2101 of the Elections Code, as amended by
16 Section 2 of Chapter 728 of the Statutes of 2015, is amended to
17 read:

18 2101. (a) A person entitled to register to vote shall be a United
19 States citizen, a resident of California, not imprisoned or on parole
20 for the conviction of a felony, and at least 18 years of age at the
21 time of the next election.

22 (b) A person entitled to preregister to vote in an election shall
23 be a United States citizen, a resident of California, not imprisoned
24 or on parole for the conviction of a felony, and at least 16 years
25 of age.

26 (c) ~~(1)~~ For purposes of this section the following definitions
27 apply:

28 ~~(A)~~

29 (1) "Imprisoned" means currently serving a state or federal
30 prison sentence.

31 ~~(B)~~

32 (2) "Parole" means a term of supervision by the Department of
33 Corrections and Rehabilitation.

34 ~~(2) For purposes of this section, "conviction" does not include~~
35 ~~a juvenile adjudication.~~

36 (3) "*Conviction*" does not include a juvenile adjudication made
37 pursuant to Section 203 of the Welfare and Institutions Code.

38 SEC. 3. Section 2106 of the Elections Code, as enacted by
39 Section 2 of Chapter 920 of the Statutes of 1994, is amended to
40 read:

1 2106. A program adopted by a county pursuant to Section 2103
2 or 2105, that is designed to encourage the registration of electors,
3 shall contain the following statement in any printed literature or
4 media announcements made in connection with the program: “A
5 person entitled to register to vote must be a United States citizen,
6 a resident of California, not currently in state or federal prison or
7 on state parole for the conviction of a felony, and at least 18 years
8 of age at the time of the election.”

9 SEC. 4. Section 2106 of the Elections Code, as amended by
10 Section 2 of Chapter 619 of the Statutes of 2014, is amended to
11 read:

12 2106. A program adopted by a county pursuant to Section 2103
13 or 2105, that is designed to encourage the registration of electors,
14 shall contain the following statement in printed literature or media
15 announcements made in connection with the program: “A person
16 entitled to register to vote must be a United States citizen, a resident
17 of California, not currently in state or federal prison or on state
18 parole for the conviction of a felony, and at least 18 years of age
19 at the time of the election. A person may preregister to vote if he
20 or she is a United States citizen, a resident of California, not
21 currently in state or federal prison or on state parole for the
22 conviction of a felony, and at least 16 years of age.” A county
23 elections official may continue to use existing materials before
24 printing new or revised materials required by any changes to this
25 section.

26 SEC. 5. Section 2106 of the Elections Code, as amended by
27 Section 5 of Chapter 728 of the Statutes of 2015, is amended to
28 read:

29 2106. A program adopted by a county pursuant to Section 2103
30 or 2105, that is designed to encourage the registration of electors,
31 shall contain the following statement in printed literature or media
32 announcements made in connection with the program: “A person
33 entitled to register to vote must be a United States citizen, a resident
34 of California, not currently imprisoned in a state or federal prison
35 or on state parole for the conviction of a felony, and at least 18
36 years of age at the time of the election. A person may preregister
37 to vote if he or she is a United States citizen, a resident of
38 California, not currently imprisoned in a state or federal prison or
39 on state parole for the conviction of a felony, and at least 16 years
40 of age.” A county elections official may continue to use existing

1 materials before printing new or revised materials required by any
2 changes to this section.

3 SEC. 6. Section 2106 of the Elections Code, as amended by
4 Section 6 of Chapter 728 of the Statutes of 2015, is amended to
5 read:

6 2106. A program adopted by a county pursuant to Section 2103
7 or 2105, that is designed to encourage the registration of electors,
8 shall contain the following statement in any printed literature or
9 media announcements made in connection with the program: “A
10 person entitled to register to vote must be a United States citizen,
11 a resident of California, not currently imprisoned in a state or
12 federal prison or on state parole for the conviction of a felony, and
13 at least 18 years of age at the time of the election.”

14 SEC. 7. Section 2212 of the Elections Code, as amended by
15 Section 95 of Chapter 784 of the Statutes of 2002, is amended to
16 read:

17 2212. The clerk of the superior court of each county, on the
18 basis of the records of the court, shall furnish to the county
19 elections official, not less frequently than the first day of April and
20 the first day of September of each year, a statement showing the
21 names, addresses, and dates of birth of all persons who have been
22 committed to state prison as the result of a felony conviction since
23 the clerk’s last report. The elections official shall, during the first
24 week of April and the first week of September in each year, cancel
25 the affidavits of registration of those persons who are currently
26 imprisoned or on parole for the conviction of a felony. The clerk
27 shall certify the statement under the seal of the court.

28 SEC. 8. Section 2212 of the Elections Code, as amended by
29 Section 65 of Chapter 728 of the Statutes of 2015, is amended to
30 read:

31 2212. The clerk of the superior court of each county, on the
32 basis of the records of the court, shall furnish to the Secretary of
33 State and the county elections official in the format prescribed by
34 the Secretary of State, not less frequently than the first day of every
35 month, a statement showing the names, addresses, and dates of
36 birth of all persons who have been committed to state prison as
37 the result of a felony conviction since the clerk’s last report. The
38 Secretary of State or county elections official shall cancel the
39 affidavits of registration of those persons who are currently

1 imprisoned or on parole for the conviction of a felony. The clerk
2 shall certify the statement under the seal of the court.

3 SEC. 9. If the Commission on State Mandates determines that
4 this act contains costs mandated by the state, reimbursement to
5 local agencies and school districts for those costs shall be made
6 pursuant to Part 7 (commencing with Section 17500) of Division
7 4 of Title 2 of the Government Code.

AB 2466: Voting Rights Clarification

Building a More Inclusive Democracy

Assemblymember Shirley N. Weber (D – 79)

Co-Author: Senator Holly J. Mitchell (D – 30)

SUMMARY

AB 2466 clarifies existing California law on voter eligibility and guarantees a more inclusive and participatory electorate.

BACKGROUND

California's Constitution was amended in 1976 to end permanent disenfranchisement and prohibit from voting only people who are currently "imprisoned or on parole for the conviction of a felony." Courts have consistently interpreted this provision in favor of the enfranchisement of voters. As a result, until 2011, individuals serving a sentence for a felony conviction could vote unless they were actually serving a state-prison sentence or under California Department of Corrections and Rehabilitation (CDCR) supervision.

The Criminal Justice Realignment Act of 2011 (CJRA) created three new categories of sentencing for people convicted of low-level felonies: mandatory supervision, post-release community supervision, and a term in county jail. These new categories caused confusion for local elections officials and voters. Last year, in *Scott v. Bowen*, the issue of the voting rights of people sentenced under the first two categories of local supervision was finalized, and with the support of the Secretary of State, more than 50,000 people under mandatory and post-release community supervision had their voting rights restored.

AB 2466 amends the Elections Code to reflect the decision in *Scott v. Bowen* and clarifies that the third category of CJRA sentencing – a term in county jail – likewise does not strip people of their constitutional right to vote. This clarification completes the restoration of the law prior to the CJRA: only those serving a state-prison sentence or on parole and under CDCR supervision lose the right to vote.

Finally, civic participation can be a critical component of re-entry and has been linked to reduced recidivism. The general welfare and safety of our communities will be enhanced with the civic participation of all eligible voters, including those who are attempting to successfully re-enter their communities.

EXISTING LAW

Existing law provides that a person is entitled to register to vote if he or she is a United States citizen, a resident of California, not imprisoned or on parole for the conviction of a felony, and at least 18 years of age at the time of the next election.

SPECIFICALLY, THIS BILL

AB 2466 eliminates confusion and avoids likely litigation by clarifying the Elections Code. Specifically, this bill:

- Amends Election Code Section 2101 to mirror the language of the constitutional provision on voter eligibility.
- Codifies last year's court ruling in *Scott v. Bowen* by defining "parole" as a term of supervision by the CDCR.
- Defines the term "imprisoned" for purposes of voting as a state-prison or federal-prison sentence.
- Clarifies a juvenile adjudication is not a conviction and does not bar a juvenile from voting if otherwise eligible.
- Clarifies the information courts are required to transmit to elections officials regarding felony conviction status to ensure accurate voter file maintenance.

This bill does not change the Penal Code, affect any interpretation of the CJRA, or require Sheriffs or other law enforcement agencies to do anything new relating to voter registration or voting. Instead, AB 2466 simply provides guidance to local election officials and the Secretary of State to ensure the constitutional provision on voter eligibility is applied consistently across California.

PREVIOUS LEGISLATION

AB 938 (Weber) 2013-14 – This bill attempted to clarify that people sentenced pursuant to the Criminal Justice Realignment Act retain their constitutional right to vote. AB 938 was amended substantially in 2014 to reflect another subject area.

AB 742 (Saldana) 2009-2010 – This bill would have required courts to provide county registrars with specific information about the type of felony conviction a person suffered so as to ensure accurate voter rolls.

SUPPORT

Co-Sponsors:

- ACLU of California
- All of Us or None
- Asian Americans Advancing Justice – California
- League of Women Voters of California
- Legal Services for Prisoners with Children
- Lawyers’ Committee for Civil Rights of the San Francisco Bay Area
- Mexican American Legal Defense and Education Fund

National Organizations:

- Anti-Defamation League
- Brennan Center for Justice
- Center on Juvenile and Criminal Justice
- Drug Policy Alliance
- Mi Familia Vota
- NAACP Legal Defense Fund
- National Council of La Raza
- National Association of Social Workers – California Chapter
- Project Vote
- Rock the Vote
- Voto Latino
- Youth Law Center

California Organizations:

- A New PATH
- Alliance of Californians for Community Empowerment (ACCE)
- California Association of Nonprofits
- California Attorneys for Criminal Justice

- California Calls
- California Catholic Conference
- California Coalition for Women Prisoners
- California Immigrant Policy Center
- California Public Defenders Association
- Californians for Safety and Justice
- Californians United for a Responsible Budget
- Chinese for Affirmative Action
- Friends Committee on Legislation of California
- Further The Work
- Homeboy Industries
- Justice Not Jails
- Law Foundation of Silicon Valley
- National Lawyers Guild – Los Angeles
- Orange County Reentry Partnership
- PICO California
- Pillars of the Community
- Root & Rebound
- Rubicon Programs
- San Diego Immigrant Rights Consortium
- San Diego La Raza Lawyers Association
- San Francisco Public Defender’s Office

OPPOSITION

- California State Sheriffs’ Association

STATUS

Introduced (2/19/16)

FOR MORE INFORMATION

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Contra Costa County Board of Supervisors

Subcommittee Report

LEGISLATION COMMITTEE

6.

Meeting Date: 05/09/2016
Subject: AB 2128 (Achadjian) Marriage
Submitted For: LEGISLATION COMMITTEE,
Department: County Administrator
Referral No.: 2016-15
Referral Name: AB 2128 (Achadjian) Marriage
Presenter: Lara DeLaney **Contact:** L. DeLaney, 925-335-1097

Referral History:

This bill was referred to the Legislation Committee by Clerk-Recorder Joe Canciamilla.

Referral Update:

Assembly Bill (AB) 2128 would amend existing law that allows a member of the Armed Force of the United States who is stationed overseas and serving in a conflict or a war and is unable to appear for the license and solemnization of the marriage to enter into that marriage by the appearance of an attorney in fact and provides that the completion of the power of attorney is the sole determinant as to whether the county clerk's office or State Registrar will accept the power of attorney.

Status: 04/19/2016 From ASSEMBLY Committee on JUDICIARY: Do pass to Committee on VETERANS AFFAIRS. (10-0)

SUMMARY: Limits the power of a county clerk or the State Register to reject a power of attorney from a member of the Armed Forces stationed overseas and seeking to marry "by proxy." Specifically, this bill provides that proper completion of a power of attorney by a member of the armed forces, stationed overseas, serving in a conflict or a war and seeking to marry through an attorney-in-fact, is the sole determinant as to whether the county clerk's office and the State Registrar must accept the power of attorney and allow the military member to get married.

EXISTING LAW: Allows a member of the United States armed forces who is stationed overseas and serving in a conflict or a war and is unable to appear for licensure and solemnization of his or her marriage to enter into that marriage by the appearance of an attorney-in-fact, commissioned and empowered in writing for that purpose through a power of attorney. (Family Code Section 420.)

FISCAL EFFECT: As currently in print this bill is keyed non-fiscal.

COMMENTS: As stated by the Committee on Judiciary which heard this bill prior to its referral

to this Committee:

California is now one of only a handful of states, including Texas and Colorado, that permit marriage by proxy [marriage where one or both parties is not physically present]. Montana allows a "double proxy marriage" in which neither party must be present in the state in order to legally marry, provided at least one party is either a resident of Montana or a member of the military.

The current problem, according to the sponsor, the California Association of Clerks and Elections Officials, is that a small number of county clerks and state officials have questioned whether some of the overseas military members seeking to marry by proxy are actually in war or conflict zones and have, as a result, rejected some requests to marry by proxy or later rejected marriage licenses. Given the international nature of today's evolving threat of terrorism, it may not be clear to a county clerk or an official with the State Registrar where conflict zones are. Thus, it appears best to accept a military member's signed declaration, which as stated on the required form must be done under penalty of perjury, that he or she is serving in war or conflict zone. This bill does just that by providing that proper completion of a power of attorney by a member of the armed forces, stationed overseas and serving in a conflict or a war and seeking to marry through an attorney-in-fact, is the sole determinant as to whether the county clerk's office and the State Registrar must accept the power of attorney and allow the military member to get married.

In most instances, California law and that of most states does not allow proxy marriage because the legal and other implications of marriage are so great that we want parties to a marriage to be physically present. We would rather the parties incur some inconvenience or delay rather than risk, even if the possibility is remote, that one party might be married without knowledge or consent.

According to the Committee on Judiciary, the very limited marriage by proxy exception in California which is at issue with this bill was presented by a couple, one of whom was deployed to Iraq in 2004 and, in the context of that conflict actually or quite likely to be in harm's way. In such a circumstance, where a partner faces potential danger during deployment to a combat area, the concern is that there may imminently be incapacitation or loss of life which would prevent the parties from marrying later.

Though accidents and serious injury are always possible, the possibility of such an eventuality in a combat zone or conflict is real and not speculative. Many veterans benefits and other important rights, privileges and benefits may not arise or pass to the unmarried partner (or children of the unmarried partners) at home should the deployed partner be injured or killed. Therefore it has been the policy of this state to allow marriage by proxy in this limited situation, to prevent the potential loss to the non-deployed partner and children.

According to the author:

In 2004, the Legislature overwhelmingly passed SB 7, which allowed members of the Armed Forces to participate in a "marriage by proxy" so that if they were unable to attend their marriage ceremony, they would still be able to get married. Unfortunately, since then, numerous marriage certificates have been denied because the California Department of Public Health has deemed the person wasn't stationed in an area of conflict or war. However, areas of war or conflict are difficult to determine because it is undefined and those areas are ever-changing. AB 2128 states that the completion of the power of attorney is the sole determinant as to whether the county clerk's office and the State Registrar will accept the power of attorney. This will ensure that the marriage certificate is honored and that the county clerks and the State Registrar are not forced to determine whether or not the service member is stationed in an area of war or conflict.

The problem presented by the sponsor of the bill is really one of implementation, as pointed out by the author. The nature of modern war, conflict, and the diverse spectrum of modern military operations renders it unreasonable to place the burden of determining compliance with the statute on the county clerk insofar as it pertains to deployment in a war or conflict.

REGISTERED SUPPORT / OPPOSITION:

Support:

AMVETS, Department of California

California Association of Clerks and Election Officials

California Association of County Veterans Service Officers

Military Officers Association of America, California Council of Chapters

Veterans of Foreign Wars, Department of California

Vietnam Veterans of America, California State Council

Opposition:

None on File.

Analysis Prepared by: John Spangler / V.A. / (916) 319-3550

Recommendation(s)/Next Step(s):

CONSIDER recommending to the Board of Supervisors a position of "Support" on AB 2128 (Achadjian): Marriage, as recommended by the Clerk-Recorder.

Attachments

Attachment A: AB 2128 bill text

AMENDED IN ASSEMBLY APRIL 11, 2016
AMENDED IN ASSEMBLY MARCH 15, 2016
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2128

Introduced by Assembly Member Achadjian

February 17, 2016

An act to amend Section 420 of the Family Code, relating to marriage.

LEGISLATIVE COUNSEL'S DIGEST

AB 2128, as amended, Achadjian. Marriage.

Existing law allows a member of the Armed Forces of the United States who is stationed overseas and serving in a conflict or a war and is unable to appear for the licensure and solemnization of the marriage to enter into that marriage by the appearance of an attorney ~~in fact~~, *fact, commissioned and empowered in writing for that purpose through a power of attorney duly signed by the party stationed overseas and acknowledged by a notary or witnessed by 2 officers of the United States Armed Forces.*

This bill would ~~remove the requirement that the member of the Armed Forces of the United States be serving in a conflict or war~~, *provide that the completion of the power of attorney is the sole determinant as to whether the county clerk's office or State Registrar will accept the power of attorney.*

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 420 of the Family Code is amended to
2 read:

3 420. (a) No particular form for the ceremony of marriage is
4 required for solemnization of the marriage, but the parties shall
5 declare, in the physical presence of the person solemnizing the
6 marriage and necessary witnesses, that they take each other as
7 spouses.

8 (b) Notwithstanding subdivision (a), a member of the Armed
9 Forces of the United States who is stationed overseas and *serving*
10 *in a conflict or a war and* is unable to appear for the licensure and
11 solemnization of the marriage may enter into that marriage by the
12 appearance of an attorney in fact, commissioned and empowered
13 in writing for that purpose through a power of attorney. The
14 attorney in fact ~~must~~ *shall* personally appear at the county clerk's
15 office with the party who is not stationed ~~overseas~~, *overseas* and
16 present the original power of attorney duly signed by the party
17 stationed overseas and acknowledged by a notary or witnessed by
18 two officers of the United States Armed Forces. Copies in any
19 form, including by facsimile, are not acceptable. The power of
20 attorney shall state the full given names at birth, or by court order,
21 of the parties to be married, and that the power of attorney is solely
22 for the purpose of authorizing the attorney in fact to obtain a
23 marriage license on the person's behalf and participate in the
24 solemnization of the marriage. The original power of attorney shall
25 be a part of the marriage certificate upon registration. *The*
26 *completion of a power of attorney shall be the sole determinant*
27 *as to whether the county clerk's office and the State Registrar will*
28 *accept the power of attorney.*

29 (c) ~~No~~ A contract of marriage, if otherwise duly made, shall *not*
30 be invalidated for want of conformity to the requirements of any
31 religious sect.

O



Contra Costa County Board of Supervisors

Subcommittee Report

LEGISLATION COMMITTEE

7.

Meeting Date: 05/09/2016
Subject: SB 941 (Mitchell) Juveniles
Submitted For: LEGISLATION COMMITTEE,
Department: County Administrator
Referral No.: 2016-16
Referral Name: SB 941 (Mitchell) Juveniles
Presenter: Lara DeLaney **Contact:** L. DeLaney, 925-335-1097

Referral History:

This bill was referred to the Legislation Committee by the County Administrator.

Referral Update:

Senate Bill (SB) 941 would eliminate a number of fiscal liabilities to parents, guardians and minors for costs associated with a minor's involvement in the juvenile justice system and, in some instances, comparable costs for convicted young adults under the age of 21, as specified. In Contra Costa County, the majority of Care of Court Wards reimbursements flow through the Probation Collections Unit now. Revenues to the County are approximately \$377k YTD.

Status: 04/19/2016 From SENATE Committee on PUBLIC SAFETY: Do pass to Committee on APPROPRIATIONS. (6-1)

Bill Analysis: 04/18/2016

Family Liability Based on Juvenile Detention or Wardship

Current law generally authorizes the board of supervisors for any county to designate a county officer to make financial evaluations of defendants and other persons liable for reimbursable costs under the law, as specified. (Government Code Section 27750.)

Current law provides that the county financial evaluation officer shall make financial evaluations of parental liability[1] for reimbursements and other court-ordered costs relating to reasonable costs of support of the minor while the minor is placed, or detained in, or committed to, any institution, as a result of temporary detention or a delinquency court order, legal services, probation supervision, and costs for records sealing, as specified,[2] as directed by the board of supervisors, or as established by order of the juvenile court, and may enforce the court order as any other civil judgment, including any balance remaining unpaid after jurisdiction of the minor has terminated. (Government Code Section 27765.)

This bill would narrow the scope of this liability for these kinds of costs to apply only to legal services rendered to the minor by an attorney pursuant to an order of the juvenile court, any cost to the county or the court of legal services rendered directly to the father, mother, or spouse, of the minor or any other person liable for the support of the minor, in a dependency proceeding by an attorney appointed pursuant to an order of the juvenile court (Welfare and Institutions Code ("WIC") Section 903.1), and, for persons age 26 and older, the cost to the county and court for any investigation related to the sealing and for the sealing of any juvenile court or arrest records, as specified. (WIC Section 903.3.)

Current law generally provides the authority for a county financial evaluation officer to reduce, cancel or remit the costs of juvenile wardship, as described above; to investigate the financial condition of the minor and his or her relatives to determine their financial capacity to pay such charges; and to enforce a claim for reimbursement for these charges if it is learned that property or other assets subsequently were acquired, as specified. (Government Code Section 27757.)

This bill would amend this section to delete all of its provisions except the authority to reduce, cancel or remit the costs associated with the legal and sealing costs described and cited above.

Liability Based on Costs for Electronic Home Detention or County Inmate Work Furlough Participation

Current law authorizes sheriffs, probation officers, and directors of county departments of corrections to "offer a program under which inmates committed to a county jail or other county correctional facility or granted probation, or inmates participating in a work furlough program, may voluntarily participate or involuntarily be placed in a home detention program during their sentence in lieu of confinement in the a county jail or other county correctional facility or program under the auspices of the probation officer." (Penal Code Section 1203.016.)

Current law provides that the "board of supervisors may prescribe a program administrative fee to be paid by each home detention participant that shall be determined according to his or her ability to pay. Inability to pay all or a portion of the program fees shall not preclude participation in the program, and eligibility shall not be enhanced by reason of ability to pay," as specified. (Penal Code Section 1203.016(g).)

This bill would limit this administrative fee to adult home detention participants who are over the age of 21 years and under the jurisdiction of the criminal court.

Current law generally allows a county, upon approval by the board of supervisors, to establish a work furlough program for qualifying screened offenders, and permits the work furlough administrator to collect the inmate's earning in order to pay for the inmate's board and personal expenses, and administrative costs. (Penal Code Section 1208.)

Current law provides that a board of supervisors which implements work furlough, electronic home detention, or parole programs, as specified, may prescribe a program administrative fee and an application fee, that together shall not exceed the pro rata cost of the program to which the person is accepted, including equipment, supervision, and other operating costs, except that with "regard to a privately operated electronic home detention program . . . the limitation, . . . (that that these fees shall not exceed the pro rata cost of the program to which the person is accepted) . . . in prescribing a program administrative fee and application fee shall not apply." (Penal Code Section 1208.2(b).)

This bill would provide that with regard to an electronic home detention program, as specified, "whether or not the program is privately operated, any administrative fee or

application fee prescribed by a board of supervisors shall only apply to adults over 21 years of age and under the jurisdiction of the criminal court."

Liability for the Costs of Drug Testing

Current law provides that, for persons convicted of an offense involving the unlawful possession, use, sale, or other furnishing of any controlled substance, in addition to any sanctions and unless the court makes a finding that this condition would not serve the interests of justice, the court, when recommended by the probation officer, shall require as a condition of probation that the defendant submit to drug and substance abuse testing. If the defendant is so ordered "and has the financial ability to pay all or part of the costs associated with that testing, the court shall order the defendant to pay a reasonable fee, which shall not exceed the actual cost of the testing." (Penal Code Section 1203.1ab.)

This bill would limit this provision to adults over 21 years of age and under the jurisdiction of the criminal court.

Current law imposes this same liability on minors found to be a delinquent ward of the court by reason of the commission of an offense involving the unlawful possession, use, sale, or other furnishing of a controlled substance. (WIC Section 729.9.)

This bill would delete the provisions subjecting the minor to a court order to pay for any part of this testing.

Liability for Transporting a Minor Held in Temporary Custody

Current law generally provides that a minor who is held in temporary custody in a law enforcement facility that contains a lockup for adults may be released to a parent, guardian, or responsible relative by the law enforcement agency operating the facility, or into his or her own custody, provided that a minor released into his or her own custody is furnished, upon request, with transportation to his or her home or to the place where the minor was taken into custody. (WIC Section 207.2.)

Current law provides that a parent or guardian is liable for the reasonable costs of transporting the minor to a juvenile facility and for the costs of the minor's food, shelter, and care at the juvenile facility when the parent or guardian has actual notice the minor is scheduled for release and that the parent or guardian is asked to pick up the minor by a time certain no later than six hours from the time the minor was placed in detention; when it is "reasonably possible" for the parent or guardian to pick up the minor; and the parent or guardian refused to accept or make a reasonable effort to pick up on the minor. (WIC Section 207.2(b).) Current law imposes a \$100 cap on this liability, combined with additional, related liabilities as specified, for every 24 hour period the parent or guardian fails to make a reasonable effort to pick up the minor, as specified. (WIC Section 207.2 (c).) Current law further limits this liability by ability to pay, as specified. (WIC Section 207.2(d).)

This bill deletes all of the financial liability provisions of this section.

Liability for Legal Expenses

Current law provides that the "father, mother, spouse, or other person liable for the support of a minor, the estate of that person, and the estate of the minor, shall be liable for the cost to the county or the court, whichever entity incurred the expenses, of legal services rendered to the minor by an attorney pursuant to an order of the juvenile court. The father, mother, spouse, or other person liable for the support of a minor and the estate of that person shall also be liable for any cost to the county or the court of legal services

rendered directly to the father, mother, or spouse, of the minor or any other person liable for the support of the minor, in a dependency proceeding by an attorney appointed pursuant to an order of the juvenile court. The liability of those persons (in this article called relatives) and estates shall be a joint and several liability.

Current law provides that this liability does not apply "if a petition to declare the minor a dependent child of the court pursuant to Section 300 is dismissed at or before the jurisdictional hearing." (WIC Section 903.1)

This bill would limit this liability to apply for any cost to the county or the court of legal services rendered directly to the father, mother, or spouse, of the minor or any other person liable for the support of the minor, in a dependency proceeding by an attorney appointed pursuant to an order of the juvenile court.

Conforming Amendments

This bill makes conforming amendments consistent with its provisions limiting the liabilities as described above, in the following sections:

- * Family notification of potential liabilities required in a petition to commence proceedings in the juvenile court to declare a child a ward or dependent of the court, (WIC Section ; 332 and 656).
- * Ability to pay cross-reference to a section repealed by this bill (WIC Section 871).

Liabilities Pertaining to the Support of Wards and Dependent Children

Current law states that if "it is necessary that provision be made for the expense of support and maintenance of a ward or dependent child of the juvenile court or of a minor person concerning whom a petition has been filed . . . the order providing for the care and custody of such ward, dependent child or other minor person shall direct that the whole expense of support and maintenance of such ward, dependent child or other minor person, up to the amount of . . . \$20 per month be paid from the county treasury and may direct that an amount up to any maximum amount per month established by the board of supervisors of the county be so paid. The board of supervisors of each county is hereby authorized to establish, either generally or for individual wards or dependent children or according to classes or groups of wards or dependent children, a maximum amount which the court may order the county to pay for such support and maintenance. All orders made pursuant to the provisions of this section shall state the amounts to be so paid from the county treasury, and such amounts shall constitute legal charges against the county.

This bill would revise this provision to instead authorize that the order for the care and custody of the ward, dependent child or other minor direct that the whole expense of support and maintenance for the child be paid for from the county treasury.

This bill additionally makes a technical correction to this section.

CalWORKS Welfare to Work

Current law generally provides statutory requirements for eligibility for an individual to participate in "family stabilization," as specified. (WIC Section 11325.24.)

This bill would add to this criteria that a "child in the family has been held in temporary custody in a law enforcement facility pursuant to subdivision (d) of Section 207.1."

Statutes Repealed by This Bill

This bill additionally repeals the following existing sections providing for liability relating to wards of the court:

- * WIC section 902 (orders for additional amounts to pay the whole expense of support and maintenance of a ward, dependent child, or other minor person);
- * WIC section 903 (liability for costs of support of the minor while the minor is placed, or detained in, or committed to, any institution or other place, as specified);
- * WIC section 903.15 (liability for registration fee of up to \$50 for appointed legal counsel);
- * WIC section 903.2 (liability for probation supervision, home supervision, or electronic supervision);
- * WIC section 903.25 (food, shelter and care costs of juveniles in custody of probation or detained in juvenile facility);
- * WIC section 903.4 (recovery of moneys or incurred costs for support of minors in county institution or other placed program);
- * WIC section 903.45 (financial evaluation of ability to pay; subsequent petition for order to pay);
- * WIC section 903.5 (voluntary placement of minor in out-of-home care);
- * WIC section 903.6 (distribution of collected funds);
- * WIC section 903.7 (the "Foster Children and Parent Training Fund.") and
- * WIC section 904 (determination of charges by boards of supervisors or courts).

Outstanding Court-ordered Costs Unenforceable after January 1, 2017

This bill would provide that on and after January 1, 2017, the balance of any court-ordered costs imposed pursuant to the liabilities eliminated by this bill "shall be unenforceable and uncollectable, and, on January 1, 2018, the portion of the judgment imposing those costs shall be vacated."

This bill further would provide that on and after January 1, 2017, the balance of any court-ordered costs imposed pursuant Section 903.1 of the Welfare and Institutions Code that are related to the rendering of legal services to a minor by an attorney pursuant to an order of the juvenile court shall be unenforceable and uncollectable, and, on January 1, 2018, the portion of the judgment imposing those costs shall be vacated."

RECEIVERSHIP/OVERCROWDING CRISIS AGGRAVATION

For the past several years this Committee has scrutinized legislation referred to its jurisdiction for any potential impact on prison overcrowding. Mindful of the United States Supreme Court ruling and federal court orders relating to the state's ability to provide a constitutional level of health care to its inmate population and the related issue of prison overcrowding, this Committee has applied its "ROCA" policy as a content-neutral, provisional measure necessary to ensure that the Legislature does not erode progress in reducing prison overcrowding.

On February 10, 2014, the federal court ordered California to reduce its in-state adult

institution population to 137.5% of design capacity by February 28, 2016, as follows:

- * 143% of design bed capacity by June 30, 2014;
- * 141.5% of design bed capacity by February 28, 2015; and,
- * 137.5% of design bed capacity by February 28, 2016.

In December of 2015 the administration reported that as "of December 9, 2015, 112,510 inmates were housed in the State's 34 adult institutions, which amounts to 136.0% of design bed capacity, and 5,264 inmates were housed in out-of-state facilities. The current population is 1,212 inmates below the final court-ordered population benchmark of 137.5% of design bed capacity, and has been under that benchmark since February 2015." (Defendants' December 2015 Status Report in Response to February 10, 2014 Order, 2:90-cv-00520 KJM DAD PC, 3-Judge Court, Coleman v. Brown, Plata v. Brown (fn. omitted).) One year ago, 115,826 inmates were housed in the State's 34 adult institutions, which amounted to 140.0% of design bed capacity, and 8,864 inmates were housed in out-of-state facilities. (Defendants' December 2014 Status Report in Response to February 10, 2014 Order, 2:90-cv-00520 KJM DAD PC, 3-Judge Court, Coleman v. Brown, Plata v. Brown (fn. omitted).)

While significant gains have been made in reducing the prison population, the state must stabilize these advances and demonstrate to the federal court that California has in place the "durable solution" to prison overcrowding "consistently demanded" by the court. (Opinion Re: Order Granting in Part and Denying in Part Defendants' Request For Extension of December 31, 2013 Deadline, NO. 2:90-cv-0520 LKK DAD (PC), 3-Judge Court, Coleman v. Brown, Plata v. Brown (2-10-14). The Committee's consideration of bills that may impact the prison population therefore will be informed by the following questions:

- * Whether a proposal erodes a measure which has contributed to reducing the prison population;
- * Whether a proposal addresses a major area of public safety or criminal activity for which there is no other reasonable, appropriate remedy;
- * Whether a proposal addresses a crime which is directly dangerous to the physical safety of others for which there is no other reasonably appropriate sanction;
- * Whether a proposal corrects a constitutional problem or legislative drafting error; and
- * Whether a proposal proposes penalties which are proportionate, and cannot be achieved through any other reasonably appropriate remedy.

COMMENTS

1. Stated Need for This Bill

The author states in part:

Current law authorizes counties to hold parents liable for many of the costs incurred in providing counsel, care and supervision to youth in the juvenile system in order to help counties recoup costs. . . .

. . . These fees are purely administrative in nature--by law, the fees are meant solely "to protect the fiscal integrity of the county." They are not supposed to be retributive, rehabilitative or restorative. . . .

In 2015, the Policy Advocacy Clinic at Berkeley Law surveyed all 58 Chief Probation Officers in California about juvenile administrative fee practices. They received responses from 52 counties. Fees differ by jurisdiction, but 48 of 52 California counties report charging fees for detention in Juvenile Hall, 28 charge for electronic monitoring, 21 charge for probation supervision and 15 charge for drug testing; of the fixed fees, 37 of 52 counties charge for public defenders and 11 charge for investigations. . . .

Two counties--Los Angeles and San Francisco--do not assess and collect juvenile administrative fees. San Francisco has never charged fees as a matter of principle Los Angeles placed a moratorium on these fees in 2009 after negative media attention to the County's billing and collection practices and the harm it caused to families. . . .

Charging existing fee amounts on families in various counties across the state can disrupt a family's financial stability. For example, in Contra Costa County, a family was charged over \$4000 in fees for days that their son spent in juvenile hall despite the fact that he was later cleared of all charges against him. Upon assessment, these fees became a civil judgment against the family. . . .

Given that many families with youth in the juvenile justice system are disproportionately low-income, the harm is particularly acute when fees are ordered against these families. . . .

Additionally, youth of color are overrepresented at every stage in the criminal justice system, even when controlling for alleged criminal behavior. . . . Racially disproportionate interaction with the system leaves youth of color and their families with significantly more court-related debt. For example, in Alameda County, because African American youth are sentenced more often to probation and serve longer probation conditions than white youth, a family with an African American youth is liable for more than twice the juvenile administrative fees (\$3,438) as a family with a white youth (\$1,637). . . .

. . . Under Welfare and Institutions Code section 903.45, financial evaluation officers (FEOs) are supposed to evaluate who can afford to pay such fees and whose fees should be reduced or waived based on an inability to pay. Unfortunately, in many counties, the ability to pay determination is not conducted fairly or consistently. For example, in Alameda County, one FEO stated that she could tell whether a family was lying about their income based on the mother's handbag. In Orange County, ability to pay determinations are not based on current income; instead, the County considers the likelihood of obtaining employment and future income. In any county, the burden often appears to be on low-income families to prove their inability to pay, with FEOs exercising wide discretion

As a result of the high financial burden and a flawed ability to pay process, county policies and practices undermine family stability, and are counterproductive to the rehabilitative purpose of the juvenile system. . . .

Current juvenile administrative fee scheme also creates perverse incentives for youth and their families. A grandmother who was charged detention fees for her grandson contemplated relinquishing custody of her grandson to the county because she could not pay these fees on her income of only \$400 per month. In another instance, a youth thought of running away from home and living on the streets--becoming homeless--in the hopes that his family would be relieved of the fee burden. . . .

Research through Public Record Act requests to Alameda County, Contra Costa County, Orange County, Riverside County, Sacramento County, and Santa Clara County has also shown that counties receive minimal revenue from charging low-income families administrative fees. . . .

. . . most (families) cannot afford to pay these fees. . . . [para] . . . (M)any counties spend nearly as much on trying to collect administrative fees from low-income families than they actually collect each year. For example, Alameda County has four staff in its Central Collections Agency at varying FTE levels who are in charge of assessing and collecting fees from families. Taking into consideration their salaries and benefits as well as other costs involved, Alameda County spends approximately \$250,000 each year to collect only \$400,000. In other words, their net financial gain each year is only about \$150,000, which is minimal in light of \$74.3 million Probation budget. . . .

2. What This Bill Would Do

As explained in detail above, this bill would repeal existing statutory authority to charge the families and guardians of children in the juvenile justice system for the costs of their care and supervision. The bill also has similar provisions for young adults under the age of 21. Liabilities for costs associated with a youth or young adult being in the juvenile or adult system which would be ended under this bill include:

- * supervised drug testing;
- * home detention or work furlough programs that are alternatives to incarceration;
- * orders for out-of-home care and custody of a minor; and
- * reasonable costs for transporting a minor to a juvenile facility, and food, shelter and care costs.

This bill would make any pending orders for these charges unenforceable after January 1, 2017.

3. Background: Data Collected

The Policy Advocacy Clinic at the U.C. Berkeley Law School, which has been studying the practice and impact of county assessment of administrative fees against families of youth who have been detained or placed on probation for the past two years, provided the Committee the following chart summarizing the fees targeted by this bill in several counties.

The following table, also provided by the Berkeley Law Policy Advocacy Clinic, shows the average juvenile probation conditions and fees by race in Alameda County based on a July 2013 monthly report:

[1] Specifically, the father, mother, spouse, or other person liable for the support of a minor, the estate of that person, and the estate of the minor.

[2] Sections 903, 903.1, 903.2, 903.3, and 903.45 of the Welfare and Institutions Code.

Recommendation(s)/Next Step(s):

CONSIDER recommending to the Board of Supervisors a position on SB 941 (Mitchell): Juveniles, as recommended by the County Administrator.

Attachments

Attachment A: SB 941 bill text

AMENDED IN SENATE APRIL 6, 2016

SENATE BILL

No. 941

Introduced by Senator Mitchell

February 3, 2016

An act to amend Sections 27756 and 27757 of the Government Code, to amend Sections 1203.016, 1203.1ab, and 1208.2 of the Penal Code, to amend Section 19280 of the Revenue and Taxation Code, and to amend Sections 207.2, 332, 656, 729.9, 871, 900, 903.1, and 11325.24 of, and to repeal Sections 902, 903, ~~903.1~~, 903.15, 903.2, 903.25, 903.4, 903.45, ~~903.47~~, 903.5, 903.6, 903.7, and 904 of, the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

SB 941, as amended, Mitchell. Juveniles.

(1) Existing law provides that the board of supervisors of any county may authorize the correctional administrator to offer a program under which inmates committed to a county jail or other county correctional facility or granted probation, or inmates participating in a work furlough program, may voluntarily participate or involuntarily be placed in a home detention program during their sentence in lieu of confinement in ~~the a~~ county jail or other county correctional facility or program. Existing law authorizes the board of supervisors to prescribe a program administrative fee and an application fee for this program.

This bill would make those fees payable only by adult participants of that home detention ~~program~~. *program who are over 21 years of age and under the jurisdiction of the criminal court.*

(2) Existing law provides that upon conviction of certain offenses involving controlled substances, or upon a finding that a minor is subject to the jurisdiction of the juvenile court by reason of committing one of

those certain offenses, the court, when recommended by the probation officer, shall require, as a condition of probation, that the defendant or the minor not use or be under the influence of any controlled substance and submit to drug and substance abuse testing as directed by the probation officer, unless the court makes a finding that this condition would not serve the interests of justice. Existing law requires the court to order the defendant or the minor to pay a reasonable fee, not to exceed the actual cost of the testing, if the defendant or the minor is required to submit to testing and has the financial ability to pay all or part of those costs.

This bill would authorize the court to order a defendant to pay that reasonable fee only if the defendant is an ~~adult~~ *adult who is over 21 years of age and under the jurisdiction of the criminal court*. The bill would also delete the authorization to charge the minor that reasonable fee. By increasing county costs associated with drug and substance abuse testing, this bill would impose a state-mandated local program.

(3) Existing law requires specified orders providing for the care and custody of a ward, dependent child, or other minor person to direct that the whole expense of support and maintenance of the minor, up to the amount of \$20 per month, be paid from the county treasury. Existing law authorizes the board of supervisors of each county to establish a maximum amount that the court may order the county to pay for that support and maintenance and authorizes the court to direct that an amount up to that maximum amount be paid.

This bill would delete the \$20 maximum on support and maintenance payments and delete county boards of supervisors authorization to establish a maximum amount that the court may order the county to pay. By increasing county funding obligations, this bill would impose a state-mandated local program.

(4) Existing law generally imposes liability on a parent, spouse, or other person liable for the support of a minor for certain costs, including the reasonable costs of transporting the minor to a juvenile facility and for the costs of the minor's food, shelter, and care at the juvenile facility when the minor has been held in temporary custody, as specified, and certain other circumstances are applicable; the reasonable costs of supporting the minor when he or she is placed, detained in, committed to, any institution or other place pursuant to specified provisions of law or pursuant to an order of the juvenile court; the cost of the legal services rendered to the minor by an attorney pursuant to an order of the juvenile court; and the cost of probation supervision, home supervision, or

electronic surveillance of the minor, pursuant to the order of the juvenile court.

This bill would repeal these ~~provisions~~. *provisions and specify that, on and after January 1, 2017, the balance of any court-ordered costs imposed pursuant those provisions is unenforceable and uncollectable. The bill would, on January 1, 2018, require the portion of the judgment imposing those costs to be vacated.* The bill would make other conforming changes. By increasing county funding obligations, this bill would impose a state-mandated local program.

(5) Existing law establishes the Foster Children and Parent Training Fund in the State Treasury for purposes of supporting foster parent training programs conducted by community colleges. Existing law makes this fund inoperative after June 30, 2005, unless otherwise specified in the annual Budget Act or in another statute.

This bill would repeal those provisions.

(6) Existing federal law provides for allocation of federal funds through the federal Temporary Assistance for Needy Families (TANF) block grant program to eligible states, known in California as the California Work Opportunity and Responsibility to Kids (CalWORKs) program. Under the CalWORKs program, each county provides cash assistance and other benefits to qualified low-income families and individuals who meet specified eligibility criteria. Existing law requires, with certain exceptions, every individual, as a condition of eligibility for aid under the CalWORKs program, to participate in welfare-to-work activities. Existing law authorizes a recipient to participate in family stabilization if the county determines that his or her family is experiencing an identified situation or crisis that is destabilizing the family and would interfere with participation in welfare-to-work activities and services. Existing law specifies that a situation or crisis that is destabilizing the family may include, but is not limited to, homelessness or imminent risk of homelessness.

This bill would also specify that a situation or crisis that is destabilizing the family includes when a child in the family has been held in temporary custody in a law enforcement facility, as specified.

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 27756 of the Government Code is
2 amended to read:

3 27756. In a county where the board of supervisors has
4 designated a county financial evaluation officer, the county
5 financial evaluation officer shall make financial evaluations of
6 parental liability for reimbursements and other court-ordered costs
7 pursuant to ~~Section~~ Sections 903.1 and 903.3 of the Welfare and
8 Institutions Code, as directed by the board of supervisors, or as
9 established by order of the juvenile court, and may enforce the
10 court order as any other civil judgment, including any balance
11 remaining unpaid after jurisdiction of the minor has terminated.

12 SEC. 2. Section 27757 of the Government Code is amended
13 to read:

14 27757. Except as otherwise ordered by the juvenile court, a
15 county financial evaluation officer, upon satisfactory proof, may
16 reduce, cancel, or remit the costs and charges listed in ~~Section~~
17 Sections 903.1 and 903.3 of the Welfare and Institutions Code, or
18 established by order of the juvenile court.

19 SEC. 3. Section 1203.016 of the Penal Code is amended to
20 read:

21 1203.016. (a) Notwithstanding any other law, the board of
22 supervisors of any county may authorize the correctional
23 administrator, as defined in subdivision (h), to offer a program
24 under which inmates committed to a county jail or other county
25 correctional facility or granted probation, or inmates participating
26 in a work furlough program, may voluntarily participate or
27 involuntarily be placed in a home detention program during their
28 sentence in lieu of confinement in ~~the~~ a county jail or other county
29 correctional facility or program under the auspices of the probation
30 officer.

1 (b) The board of supervisors, in consultation with the
2 correctional administrator, may prescribe reasonable rules and
3 regulations under which a home detention program may operate.
4 As a condition of participation in the home detention program, the
5 inmate shall give his or her consent in writing to participate in the
6 home detention program and shall in writing agree to comply or,
7 for involuntary participation, the inmate shall be informed in
8 writing that he or she shall comply, with the rules and regulations
9 of the program, including, but not limited to, the following rules:

10 (1) The participant shall remain within the interior premises of
11 his or her residence during the hours designated by the correctional
12 administrator.

13 (2) The participant shall admit any person or agent designated
14 by the correctional administrator into his or her residence at any
15 time for purposes of verifying the participant's compliance with
16 the conditions of his or her detention.

17 (3) The participant shall agree to the use of electronic
18 monitoring, which may include global positioning system devices
19 or other supervising devices for the purpose of helping to verify
20 his or her compliance with the rules and regulations of the home
21 detention program. The devices shall not be used to eavesdrop or
22 record any conversation, except a conversation between the
23 participant and the person supervising the participant which is to
24 be used solely for the purposes of voice identification.

25 (4) The participant shall agree that the correctional administrator
26 in charge of the county correctional facility from which the
27 participant was released may, without further order of the court,
28 immediately retake the person into custody to serve the balance
29 of his or her sentence if the electronic monitoring or supervising
30 devices are unable for any reason to properly perform their function
31 at the designated place of home detention, if the person fails to
32 remain within the place of home detention as stipulated in the
33 agreement, if the person willfully fails to pay fees to the provider
34 of electronic home detention services, as stipulated in the
35 agreement, subsequent to the written notification of the participant
36 that the payment has not been received and that return to custody
37 may result, or if the person for any other reason no longer meets
38 the established criteria under this section. A copy of the agreement
39 shall be delivered to the participant and a copy retained by the
40 correctional administrator.

1 (c) Whenever the peace officer supervising a participant has
2 reasonable cause to believe that the participant is not complying
3 with the rules or conditions of the program, or that the electronic
4 monitoring devices are unable to function properly in the
5 designated place of confinement, the peace officer may, under
6 general or specific authorization of the correctional administrator,
7 and without a warrant of arrest, retake the person into custody to
8 complete the remainder of the original sentence.

9 (d) Nothing in this section shall be construed to require the
10 correctional administrator to allow a person to participate in this
11 program if it appears from the record that the person has not
12 satisfactorily complied with reasonable rules and regulations while
13 in custody. A person shall be eligible for participation in a home
14 detention program only if the correctional administrator concludes
15 that the person meets the criteria for release established under this
16 section and that the person's participation is consistent with any
17 reasonable rules and regulations prescribed by the board of
18 supervisors or the administrative policy of the correctional
19 administrator.

20 (1) The rules and regulations and administrative policy of the
21 program shall be written and reviewed on an annual basis by the
22 county board of supervisors and the correctional administrator.
23 The rules and regulations shall be given to or made available to
24 any participant upon request.

25 (2) The correctional administrator, or his or her designee, shall
26 have the sole discretionary authority to permit program
27 participation as an alternative to physical custody. All persons
28 referred or recommended by the court to participate in the home
29 detention program pursuant to subdivision (e) who are denied
30 participation or all persons removed from program participation
31 shall be notified in writing of the specific reasons for the denial
32 or removal. The notice of denial or removal shall include the
33 participant's appeal rights, as established by program administrative
34 policy.

35 (e) The court may recommend or refer a person to the
36 correctional administrator for consideration for placement in the
37 home detention program. The recommendation or referral of the
38 court shall be given great weight in the determination of acceptance
39 or denial. At the time of sentencing or at any time that the court

1 deems it necessary, the court may restrict or deny the defendant's
2 participation in a home detention program.

3 (f) The correctional administrator may permit home detention
4 program participants to seek and retain employment in the
5 community, attend psychological counseling sessions or
6 educational or vocational training classes, or seek medical and
7 dental assistance. Willful failure of the program participant to
8 return to the place of home detention not later than the expiration
9 of any period of time during which he or she is authorized to be
10 away from the place of home detention pursuant to this section
11 and unauthorized departures from the place of home detention are
12 punishable as provided in Section 4532.

13 (g) The board of supervisors may prescribe a program
14 administrative fee to be paid by each adult home detention
15 participant *who is over 21 years of age and under the jurisdiction*
16 *of the criminal court* that shall be determined according to his or
17 her ability to pay. Inability to pay all or a portion of the program
18 fees shall not preclude participation in the program, and eligibility
19 shall not be enhanced by reason of ability to pay. All program
20 administration and supervision fees shall be administered in
21 compliance with Section 1208.2.

22 (h) As used in this section, "correctional administrator" means
23 the sheriff, probation officer, or director of the county department
24 of corrections.

25 (i) Notwithstanding any other law, the police department of a
26 city where an office is located to which persons on an electronic
27 monitoring program report may request the county correctional
28 administrator to provide information concerning those persons.
29 This information shall be limited to the name, address, date of
30 birth, offense committed by the home detainee, and if available,
31 at the discretion of the supervising agency and solely for
32 investigatory purposes, current and historical GPS coordinates of
33 the home detainee. A law enforcement department that does not
34 have the primary responsibility to supervise participants in the
35 electronic monitoring program that receives information pursuant
36 to this subdivision shall not use the information to conduct
37 enforcement actions based on administrative violations of the home
38 detention program. A law enforcement department that has
39 knowledge that the subject in a criminal investigation is a
40 participant in an electronic monitoring program shall make

1 reasonable efforts to notify the supervising agency prior to serving
2 a warrant or taking any law enforcement action against a participant
3 in an electronic monitoring program.

4 (j) It is the intent of the Legislature that home detention
5 programs established under this section maintain the highest public
6 confidence, credibility, and public safety. In the furtherance of
7 these standards, the following shall apply:

8 (1) The correctional administrator, with the approval of the
9 board of supervisors, may administer a home detention program
10 pursuant to written contracts with appropriate public or private
11 agencies or entities to provide specified program services. No
12 public or private agency or entity may operate a home detention
13 program in any county without a written contract with that county's
14 correctional administrator. However, this does not apply to the use
15 of electronic monitoring by the Department of Corrections and
16 Rehabilitation. No public or private agency or entity entering into
17 a contract may itself employ any person who is in the home
18 detention program.

19 (2) Program acceptance shall not circumvent the normal booking
20 process for sentenced offenders. All home detention program
21 participants shall be supervised.

22 (3) (A) All privately operated home detention programs shall
23 be under the jurisdiction of, and subject to the terms and conditions
24 of the contract entered into with, the correctional administrator.

25 (B) Each contract shall include, but not be limited to, all of the
26 following:

27 (i) A provision whereby the private agency or entity agrees to
28 operate in compliance with any available standards promulgated
29 by state correctional agencies and bodies, including the Corrections
30 Standards Authority, and all statutory provisions and mandates,
31 state and county, as appropriate and applicable to the operation of
32 home detention programs and the supervision of sentenced
33 offenders in a home detention program.

34 (ii) A provision that clearly defines areas of respective
35 responsibility and liability of the county and the private agency or
36 entity.

37 (iii) A provision that requires the private agency or entity to
38 demonstrate evidence of financial responsibility, submitted and
39 approved by the board of supervisors, in amounts and under
40 conditions sufficient to fully indemnify the county for reasonably

1 foreseeable public liability, including legal defense costs, that may
2 arise from, or be proximately caused by, acts or omissions of the
3 contractor. The contract shall provide for annual review by the
4 correctional administrator to ensure compliance with requirements
5 set by the board of supervisors and for adjustment of the financial
6 responsibility requirements if warranted by caseload changes or
7 other factors.

8 (iv) A provision that requires the private agency or entity to
9 provide evidence of financial responsibility, such as certificates
10 of insurance or copies of insurance policies, prior to commencing
11 any operations pursuant to the contract or at any time requested
12 by the board of supervisors or correctional administrator.

13 (v) A provision that permits the correctional administrator to
14 immediately terminate the contract with a private agency or entity
15 at any time that the contractor fails to demonstrate evidence of
16 financial responsibility.

17 (C) All privately operated home detention programs shall
18 comply with all appropriate, applicable ordinances and regulations
19 specified in subdivision (a) of Section 1208.

20 (D) The board of supervisors, the correctional administrator,
21 and the designee of the correctional administrator shall comply
22 with Section 1090 of the Government Code in the consideration,
23 making, and execution of contracts pursuant to this section.

24 (E) The failure of the private agency or entity to comply with
25 statutory provisions and requirements or with the standards
26 established by the contract and with the correctional administrator
27 may be sufficient cause to terminate the contract.

28 (F) Upon the discovery that a private agency or entity with
29 whom there is a contract is not in compliance pursuant to this
30 paragraph, the correctional administrator shall give 60 days' notice
31 to the director of the private agency or entity that the contract may
32 be canceled if the specified deficiencies are not corrected.

33 (G) Shorter notice may be given or the contract may be canceled
34 without notice whenever a serious threat to public safety is present
35 because the private agency or entity has failed to comply with this
36 section.

37 (k) For purposes of this section, "evidence of financial
38 responsibility" may include, but is not limited to, certified copies
39 of any of the following:

40 (1) A current liability insurance policy.

1 (2) A current errors and omissions insurance policy.

2 (3) A surety bond.

3 SEC. 4. Section 1203.1ab of the Penal Code is amended to
4 read:

5 1203.1ab. Upon conviction of any offense involving the
6 unlawful possession, use, sale, or other furnishing of any controlled
7 substance, as defined in Chapter 2 (commencing with Section
8 11053) of Division 10 of the Health and Safety Code, in addition
9 to any or all of the terms of imprisonment, fine, and other
10 reasonable conditions specified in or permitted by Section 1203.1,
11 unless it makes a finding that this condition would not serve the
12 interests of justice, the court, when recommended by the probation
13 officer, shall require as a condition of probation that the defendant
14 shall not use or be under the influence of any controlled substance
15 and shall submit to drug and substance abuse testing as directed
16 by the probation officer. If the defendant is an ~~adult~~, *adult over 21*
17 *years of age and under the jurisdiction of the criminal court*, is
18 required to submit to testing, and has the financial ability to pay
19 all or part of the costs associated with that testing, the court shall
20 order the defendant to pay a reasonable fee, which shall not exceed
21 the actual cost of the testing.

22 SEC. 5. Section 1208.2 of the Penal Code is amended to read:

23 1208.2. (a) (1) This section shall apply to individuals
24 authorized to participate in a work furlough program pursuant to
25 Section 1208, or to individuals authorized to participate in an
26 electronic home detention program pursuant to Section 1203.016
27 or 1203.018, or to individuals authorized to participate in a county
28 parole program pursuant to Article 3.5 (commencing with Section
29 3074) of Chapter 8 of Title 1 of Part 3.

30 (2) As used in this section, as appropriate, "administrator" means
31 the sheriff, probation officer, director of the county department of
32 corrections, or county parole administrator.

33 (b) (1) A board of supervisors which implements programs
34 identified in paragraph (1) of subdivision (a), may prescribe a
35 program administrative fee and an application fee, that together
36 shall not exceed the pro rata cost of the program to which the
37 person is accepted, including equipment, supervision, and other
38 operating costs, except as provided in paragraphs (2) and (3).

39 (2) With regard to a privately operated electronic home detention
40 program pursuant to Section 1203.016 or 1203.018, the limitation,

1 described in paragraph (1), in prescribing a program administrative
2 fee and application fee shall not apply.

3 (3) With regard to an electronic home detention program
4 operated pursuant Section 1203.016, whether or not the program
5 is privately operated, any administrative fee or application fee
6 prescribed by a board of supervisors shall ~~not apply to minors~~
7 ~~participating in the program.~~ *only apply to adults over 21 years of*
8 *age and under the jurisdiction of the criminal court.*

9 (c) The correctional administrator, or his or her designee, shall
10 not have access to a person's financial data prior to granting or
11 denying a person's participation in, or assigning a person to, any
12 of the programs governed by this section.

13 (d) The correctional administrator, or his or her designee, shall
14 not consider a person's ability or inability to pay all or a portion
15 of the program fee for the purposes of granting or denying a
16 person's participation in, or assigning a person to, any of the
17 programs governed by this section.

18 (e) For purposes of this section, "ability to pay" means the
19 overall capability of the person to reimburse the costs, or a portion
20 of the costs, of providing supervision and shall include, but shall
21 not be limited to, consideration of all of the following factors:

22 (1) Present financial position.

23 (2) Reasonably discernible future financial position. In no event
24 shall the administrator, or his or her designee, consider a period
25 of more than six months from the date of acceptance into the
26 program for purposes of determining reasonably discernible future
27 financial position.

28 (3) Likelihood that the person shall be able to obtain
29 employment within the six-month period from the date of
30 acceptance into the program.

31 (4) Any other factor that may bear upon the person's financial
32 capability to reimburse the county for the fees fixed pursuant to
33 subdivision (b).

34 (f) The administrator, or his or her designee, may charge a
35 person the fee set by the board of supervisors or any portion of the
36 fee and may determine the method and frequency of payment. Any
37 fee the administrator, or his or her designee, charges pursuant to
38 this section shall not in any case be in excess of the fee set by the
39 board of supervisors and shall be based on the person's ability to
40 pay. The administrator, or his or her designee, shall have the option

1 to waive the fees for program supervision when deemed necessary,
2 justified, or in the interests of justice. The fees charged for program
3 supervision may be modified or waived at any time based on the
4 changing financial position of the person. All fees paid by persons
5 for program supervision shall be deposited into the general fund
6 of the county.

7 (g) No person shall be denied consideration for, or be removed
8 from, participation in any of the programs to which this section
9 applies because of an inability to pay all or a portion of the program
10 supervision fees. At any time during a person's sentence, the person
11 may request that the administrator, or his or her designee, modify
12 or suspend the payment of fees on the grounds of a change in
13 circumstances with regard to the person's ability to pay.

14 (h) If the person and the administrator, or his or her designee,
15 are unable to come to an agreement regarding the person's ability
16 to pay, or the amount which is to be paid, or the method and
17 frequency with which payment is to be made, the administrator,
18 or his or her designee, shall advise the appropriate court of the fact
19 that the person and administrator, or his or her designee, have not
20 been able to reach agreement and the court shall then resolve the
21 disagreement by determining the person's ability to pay, the amount
22 which is to be paid, and the method and frequency with which
23 payment is to be made.

24 (i) At the time a person is approved for any of the programs to
25 which this section applies, the administrator, or his or her designee,
26 shall furnish the person a written statement of the person's rights
27 in regard to the program for which the person has been approved,
28 including, but not limited to, both of the following:

29 (1) The fact that the person cannot be denied consideration for
30 or removed from participation in the program because of an
31 inability to pay.

32 (2) The fact that if the person is unable to reach agreement with
33 the administrator, or his or her designee, regarding the person's
34 ability to pay, the amount which is to be paid, or the manner and
35 frequency with which payment is to be made, that the matter shall
36 be referred to the court to resolve the differences.

37 (j) In all circumstances where a county board of supervisors has
38 approved a program administrator, as described in Section
39 1203.016, 1203.018, or 1208, to enter into a contract with a private
40 agency or entity to provide specified program services, the program

1 administrator shall ensure that the provisions of this section are
2 contained within any contractual agreement for this purpose. All
3 privately operated home detention programs shall comply with all
4 appropriate, applicable ordinances and regulations specified in
5 subdivision (a) of Section 1208.

6 ~~SEC. 6. Section 19280 of the Revenue and Taxation Code is~~
7 ~~amended to read:~~

8 ~~19280. (a) (1) Fines, state or local penalties, bail, forfeitures,~~
9 ~~restitution fines, restitution orders, or any other amounts imposed~~
10 ~~by a juvenile or superior court of the State of California upon a~~
11 ~~person or any other entity that are due and payable in an amount~~
12 ~~totaling no less than one hundred dollars (\$100), in the aggregate,~~
13 ~~for criminal offenses, including all offenses involving a violation~~
14 ~~of the Vehicle Code, may, no sooner than 90 days after payment~~
15 ~~of that amount becomes delinquent, be referred by the juvenile or~~
16 ~~superior court, the county, or the state to the Franchise Tax Board~~
17 ~~for collection under guidelines prescribed by the Franchise Tax~~
18 ~~Board. Unless the victim of the crime notifies the Department of~~
19 ~~Corrections and Rehabilitation or county to the contrary, the~~
20 ~~Department of Corrections and Rehabilitation or county may refer~~
21 ~~a restitution order to the Franchise Tax Board, in accordance with~~
22 ~~subparagraph (B) of paragraph (2), for any person subject to the~~
23 ~~restitution order who is or has been under the jurisdiction of the~~
24 ~~Department of Corrections and Rehabilitation or county.~~

25 ~~(2) For purposes of this subdivision:~~

26 ~~(A) The amounts referred by the juvenile or superior court, the~~
27 ~~county, or the state under this section may include an administrative~~
28 ~~fee and any amounts that a government entity may add to the~~
29 ~~court-imposed obligation as a result of the underlying offense,~~
30 ~~trial, or conviction. For purposes of this article, those amounts~~
31 ~~shall be deemed to be imposed by the court.~~

32 ~~(B) Restitution orders may be referred to the Franchise Tax~~
33 ~~Board only by a government entity, as agreed upon by the~~
34 ~~Franchise Tax Board, provided that all of the following apply:~~

35 ~~(i) The government entity has the authority to collect on behalf~~
36 ~~of the state or the victim.~~

37 ~~(ii) The government entity shall be responsible for distributing~~
38 ~~the restitution order collections, as appropriate.~~

39 ~~(iii) The government entity shall ensure, in making the referrals~~
40 ~~and distributions, that it coordinates with any other related~~

1 collection activities that may occur by superior courts, counties,
2 or other state agencies.

3 (iv) The government entity shall ensure compliance with laws
4 relating to the reimbursement of the State Restitution Fund.

5 (C) The Franchise Tax Board shall establish criteria for referral
6 that shall include setting forth a minimum dollar amount subject
7 to referral and collection.

8 (b) The Franchise Tax Board, in conjunction with the Judicial
9 Council, shall seek whatever additional resources are needed to
10 accept referrals from all 58 counties or superior courts.

11 (e) Upon written notice to the debtor from the Franchise Tax
12 Board, any amount referred to the Franchise Tax Board under
13 subdivision (a) and any interest thereon, including any interest on
14 the amount referred under subdivision (a) that accrued prior to the
15 date of referral, shall be treated as final and due and payable to the
16 State of California, and shall be collected from the debtor by the
17 Franchise Tax Board in any manner authorized under the law for
18 collection of a delinquent personal income tax liability, including,
19 but not limited to, issuance of an order and levy under Article 4
20 (commencing with Section 706.070) of Chapter 5 of Division 2
21 of Title 9 of Part 2 of the Code of Civil Procedure in the manner
22 provided for earnings withholding orders for taxes.

23 (d) (1) Part 10 (commencing with Section 17001), this part,
24 Part 10.7 (commencing with Section 21001), and Part 11
25 (commencing with Section 23001) shall apply to amounts referred
26 under this article in the same manner and with the same force and
27 effect and to the full extent as if the language of those laws had
28 been incorporated in full into this article, except to the extent that
29 any provision is either inconsistent with this article or is not
30 relevant to this article.

31 (2) Any information, information sources, or enforcement
32 remedies and capabilities available to the court or the state referring
33 to the amount due described in subdivision (a) shall be available
34 to the Franchise Tax Board to be used in conjunction with, or
35 independent of, the information, information sources, or remedies
36 and capabilities available to the Franchise Tax Board for purposes
37 of administering Part 10 (commencing with Section 17001), this
38 part, Part 10.7 (commencing with Section 21001), or Part 11
39 (commencing with Section 23001).

1 ~~(e) The activities required to implement and administer this part~~
2 ~~shall not interfere with the primary mission of the Franchise Tax~~
3 ~~Board to administer Part 10 (commencing with Section 17001)~~
4 ~~and Part 11 (commencing with Section 23001).~~

5 ~~(f) For amounts referred for collection under subdivision (a),~~
6 ~~interest shall accrue at the greater of the rate applicable to the~~
7 ~~amount due being collected or the rate provided under Section~~
8 ~~19521. When notice of the amount due includes interest and is~~
9 ~~mailed to the debtor and the amount is paid within 15 days after~~
10 ~~the date of notice, interest shall not be imposed for the period after~~
11 ~~the date of notice.~~

12 ~~(g) A collection under this article is not a payment of income~~
13 ~~taxes imposed under Part 10 (commencing with Section 17001)~~
14 ~~or Part 11 (commencing with Section 23001).~~

15 ~~SEC. 7.~~

16 *SEC. 6.* Section 207.2 of the Welfare and Institutions Code is
17 amended to read:

18 207.2. A minor who is held in temporary custody in a law
19 enforcement facility that contains a lockup for adults pursuant to
20 subdivision (d) of Section 207.1 may be released to a parent,
21 guardian, or responsible relative by the law enforcement agency
22 operating the facility, or may at the discretion of the law
23 enforcement agency be released into his or her own custody,
24 provided that a minor released into his or her own custody is
25 furnished, upon request, with transportation to his or her home or
26 to the place where the minor was taken into custody.

27 ~~SEC. 8.~~

28 *SEC. 7.* Section 332 of the Welfare and Institutions Code is
29 amended to read:

30 332. A petition to commence proceedings in the juvenile court
31 to declare a child a ward or a dependent child of the court shall be
32 verified and shall contain all of the following:

33 (a) The name of the court to which it is addressed.

34 (b) The title of the proceeding.

35 (c) The code section and the subdivision under which the
36 proceedings are instituted. If it is alleged that the child is a person
37 described by subdivision (e) of Section 300, the petition shall
38 include an allegation pursuant to that section.

39 (d) The name, age, and address, if any, of the child upon whose
40 behalf the petition is brought.

1 (e) The names and residence addresses, if known to the
2 petitioner, of both parents and any guardian of the child. If there
3 is no parent or guardian residing within the state, or if his or her
4 place of residence is not known to the petitioner, the petition shall
5 also contain the name and residence address, if known, of any
6 adult relative residing within the county, or, if there is none, the
7 adult relative residing nearest to the location of the court. If it is
8 known to the petitioner that one of the parents is a victim of
9 domestic violence and that parent is currently living separately
10 from the batterer-parent, the address of the victim-parent shall
11 remain confidential.

12 (f) A concise statement of facts, separately stated, to support
13 the conclusion that the child upon whose behalf the petition is
14 being brought is a person within the definition of each of the
15 sections and subdivisions under which the proceedings are being
16 instituted.

17 (g) The fact that the child upon whose behalf the petition is
18 brought is detained in custody or is not detained in custody, and
19 if he or she is detained in custody, the date and the precise time
20 the child was taken into custody.

21 (h) *A notice to the father, mother, spouse, or other person liable*
22 *for support of the child stating that Section 903.1 makes that*
23 *person, the estate of that person, and the estate of the child liable*
24 *for the cost to the county of legal services rendered to the child or*
25 *the parent by a private attorney or a public defender appointed*
26 *pursuant to the order of the juvenile court and that the liability*
27 *established by Section 903.1 is joint and several.*

28 ~~SEC. 9.~~

29 *SEC. 8.* Section 656 of the Welfare and Institutions Code is
30 amended to read:

31 656. A petition to commence proceedings in the juvenile court
32 to declare a minor a ward of the court shall be verified and shall
33 contain all of the following:

34 (a) The name of the court to which it is addressed.

35 (b) The title of the proceeding.

36 (c) The code section and subdivision under which the
37 proceedings are instituted.

38 (d) The name, age, and address, if any, of the minor upon whose
39 behalf the petition is brought.

1 (e) The names and residence addresses, if known to the
2 petitioner, of both of the parents and any guardian of the minor.
3 If there is no parent or guardian residing within the state, or if his
4 or her place of residence is not known to the petitioner, the petition
5 shall also contain the name and residence address, if known, of
6 any adult relative residing within the county, or, if there are none,
7 the adult relative residing nearest to the location of the court.

8 (f) A concise statement of facts, separately stated, to support
9 the conclusion that the minor upon whose behalf the petition is
10 being brought is a person within the definition of each of the
11 sections and subdivisions under which the proceedings are being
12 instituted.

13 (g) The fact that the minor upon whose behalf the petition is
14 brought is detained in custody or is not detained in custody, and
15 if he or she is detained in custody, the date and the precise time
16 the minor was taken into custody.

17 (h) *A notice to the father, mother, spouse, or other person liable*
18 *for support of the minor child stating that Section 903.1 may make*
19 *that person, the estate of that person, and the estate of the minor*
20 *child liable for the cost to the county of legal services rendered to*
21 *the minor by a private attorney or a public defender appointed*
22 *pursuant to the order of the juvenile court and that the liability*
23 *established by Section 903.1 is joint and several.*

24 ~~(h)~~

25 (i) In a proceeding alleging that the minor comes within Section
26 601, notice to the parent, guardian, or other person having control
27 or charge of the minor that failure to comply with the compulsory
28 school attendance laws is an infraction, which may be charged and
29 prosecuted before the juvenile court judge sitting as a superior
30 court judge. In those cases, the petition shall also include notice
31 that the parent, guardian, or other person having control or charge
32 of the minor has the right to a hearing on the infraction before a
33 judge different than the judge who has heard or is to hear the
34 proceeding pursuant to Section 601. The notice shall explain the
35 provisions of Section 170.6 of the Code of Civil Procedure.

36 ~~(i)~~

37 (j) If a proceeding is pending against a minor child for a
38 violation of Section 594.2, 640.5, 640.6, or 640.7 of the Penal
39 Code, a notice to the parent or legal guardian of the minor that if
40 the minor is found to have violated either or both of these

1 provisions that (1) any community service which may be required
2 of the minor may be performed in the presence, and under the
3 direct supervision, of the parent or legal guardian pursuant to either
4 or both of these provisions, and (2) if the minor is personally unable
5 to pay any fine levied for the violation of either or both of these
6 provisions, that the parent or legal guardian of the minor shall be
7 liable for payment of the fine pursuant to those sections.

8 ~~(j)~~

9 (k) A notice to the parent or guardian of the minor that if the
10 minor is ordered to make restitution to the victim pursuant to
11 Section 729.6, as operative on or before August 2, 1995, Section
12 731.1, as operative on or before August 2, 1995, or Section 730.6,
13 or to pay fines or penalty assessments, the parent or guardian may
14 be liable for the payment of restitution, fines, or penalty
15 assessments.

16 ~~SEC. 10.~~

17 *SEC. 9.* Section 729.9 of the Welfare and Institutions Code is
18 amended to read:

19 729.9. If a minor is found to be a person described in Section
20 602 by reason of the commission of an offense involving the
21 unlawful possession, use, sale, or other furnishing of a controlled
22 substance, as defined in Chapter 2 (commencing with Section
23 11053) of Division 10 of the Health and Safety Code, and, unless
24 it makes a finding that this condition would not serve the interests
25 of justice, the court, when recommended by the probation officer,
26 shall require, as a condition of probation, in addition to any other
27 disposition authorized by law, that the minor shall not use or be
28 under the influence of any controlled substance and shall submit
29 to drug and substance abuse testing as directed by the probation
30 officer.

31 ~~SEC. 11.~~

32 *SEC. 10.* Section 871 of the Welfare and Institutions Code is
33 amended to read:

34 871. (a) Any person under the custody of a probation officer
35 or any peace officer in a county juvenile hall, or committed to a
36 county juvenile ranch, camp, forestry camp, or regional facility,
37 who escapes or attempts to escape from the institution or facility
38 in which he or she is confined, who escapes or attempts to escape
39 while being conveyed to or from such an institution or facility, or
40 who escapes or attempts to escape while outside or away from

1 such an institution or facility while under the custody of a probation
2 officer or any peace officer, is guilty of a misdemeanor, punishable
3 by imprisonment in ~~the~~ a county jail not exceeding one year.

4 (b) Any person who commits any of the acts described in
5 subdivision (a) by use of force or violence shall be punished by
6 imprisonment in a county jail for not more than one year or by
7 imprisonment in the state prison.

8 (c) The willful failure of a person under the custody of a
9 probation officer or any peace officer in a county juvenile hall, or
10 committed to a county juvenile ranch camp, or forestry camp, to
11 return to the county juvenile hall, ranch, camp, or forestry camp
12 at the prescribed time while outside or away from the county
13 facility on furlough or temporary release constitutes an escape
14 punishable as provided in subdivision (a). However, a willful
15 failure to return at the prescribed time shall not be considered an
16 escape if the failure to return was reasonable under the
17 circumstances.

18 (d) A minor who, while under the supervision of a probation
19 officer, removes his or her electronic monitor without authority
20 and who, for more than 48 hours, violates the terms and conditions
21 of his or her probation relating to the proper use of the electronic
22 monitor shall be guilty of a misdemeanor. If an electronic monitor
23 is damaged or discarded while in the possession of the minor,
24 restitution for the cost of replacing the unit may be ordered as part
25 of the punishment.

26 (e) The liability established by this section shall be limited by
27 the financial ability of the person or persons ordered to pay
28 restitution under this section, who shall, upon request, be entitled
29 to an evaluation and determination of ability to pay.

30 (f) For purposes of this section, "regional facility" means any
31 facility used by one or more public entities for the confinement of
32 juveniles for more than 24 hours.

33 ~~SEC. 12.~~

34 *SEC. 11.* Section 900 of the Welfare and Institutions Code is
35 amended to read:

36 900. (a) If it is necessary that provision be made for the
37 expense of support and maintenance of a ward or dependent child
38 of the juvenile court or of a minor person concerning whom a
39 petition has been filed in accordance with ~~the provisions of~~ this
40 chapter, the order providing for the care and custody of ~~such~~ *the*

1 ward, dependent ~~child~~ *child*, or other minor person shall direct that
 2 the whole expense of support and maintenance of ~~such~~ *the* ward,
 3 dependent ~~child~~ *child*, or other minor person be paid from the
 4 county treasury. All orders made pursuant to ~~the provisions~~ of this
 5 section shall state the amounts to be ~~so~~ paid from the county
 6 treasury, and ~~such~~ *those* amounts shall constitute legal charges
 7 against the county.

8 (b) This section is applicable to a minor who is the subject of a
 9 program of supervision undertaken by the probation department
 10 pursuant to Section 301 or 654 and who is temporarily placed out
 11 of his *or her* home by the probation department, with the approval
 12 of the court and the minor's parent or guardian, for a period not
 13 to exceed seven days.

14 ~~SEC. 13.~~

15 *SEC. 12.* Section 902 of the Welfare and Institutions Code is
 16 repealed.

17 ~~SEC. 14.~~

18 *SEC. 13.* Section 903 of the Welfare and Institutions Code is
 19 repealed.

20 ~~SEC. 15.~~ Section 903.1 of the Welfare and Institutions Code
 21 is repealed.

22 *SEC. 14.* Section 903.1 of the Welfare and Institutions Code
 23 is amended to read:

24 ~~903.1. (a) The father, mother, spouse, or other person liable~~
 25 ~~for the support of a minor, the estate of that person, and the estate~~
 26 ~~of the minor, shall be liable for the cost to the county or the court,~~
 27 ~~whichever entity incurred the expenses, of legal services rendered~~
 28 ~~to the minor by an attorney pursuant to an order of the juvenile~~
 29 ~~court. The~~

30 *903.1. (a) The* father, mother, spouse, or other person liable
 31 for the support of a minor and the estate of that person shall ~~also~~
 32 be liable for any cost to the county or the court of legal services
 33 rendered directly to the father, mother, or spouse, of the minor or
 34 any other person liable for the support of the minor, in a
 35 dependency proceeding by an attorney appointed pursuant to an
 36 order of the juvenile court. The liability of those persons (in this
 37 article called relatives) and estates shall be ~~a joint and several~~
 38 *liability: several.*

39 (b) Notwithstanding subdivision (a), the father, mother, spouse,
 40 or other person liable for the support of the minor, the estate of

1 that person, or the estate of the minor, shall not be liable for the
2 costs of any of the legal services provided to any person described
3 in this section if a petition to declare the minor a dependent child
4 of the court pursuant to Section 300 is dismissed at or before the
5 jurisdictional hearing.

6 (c) Fees received pursuant to this section shall be transmitted
7 to the Administrative Office of the Courts in the same manner as
8 prescribed in Section 68085.1 of the Government Code. The
9 Administrative Office of the Courts shall deposit the fees received
10 pursuant to this section into the Trial Court Trust Fund.

11 ~~SEC. 16.~~

12 ~~SEC. 15.~~ Section 903.15 of the Welfare and Institutions Code
13 is repealed.

14 ~~SEC. 17.~~

15 ~~SEC. 16.~~ Section 903.2 of the Welfare and Institutions Code
16 is repealed.

17 ~~SEC. 18.~~

18 ~~SEC. 17.~~ Section 903.25 of the Welfare and Institutions Code
19 is repealed.

20 ~~SEC. 19.~~

21 ~~SEC. 18.~~ Section 903.4 of the Welfare and Institutions Code
22 is repealed.

23 ~~SEC. 20.~~

24 ~~SEC. 19.~~ Section 903.45 of the Welfare and Institutions Code
25 is repealed.

26 ~~SEC. 21.~~ Section 903.47 of the Welfare and Institutions Code
27 is repealed.

28 ~~SEC. 22.~~

29 ~~SEC. 20.~~ Section 903.5 of the Welfare and Institutions Code
30 is repealed.

31 ~~SEC. 23.~~

32 ~~SEC. 21.~~ Section 903.6 of the Welfare and Institutions Code
33 is repealed.

34 ~~SEC. 24.~~

35 ~~SEC. 22.~~ Section 903.7 of the Welfare and Institutions Code
36 is repealed.

37 ~~SEC. 25.~~

38 ~~SEC. 23.~~ Section 904 of the Welfare and Institutions Code is
39 repealed.

1 ~~SEC. 26.~~

2 *SEC. 24.* Section 11325.24 of the Welfare and Institutions
3 Code is amended to read:

4 11325.24. (a) If, in the course of appraisal pursuant to Section
5 11325.2 or at any point during an individual's participation in
6 welfare-to-work activities in accordance with paragraph (1) of
7 subdivision (a) of Section 11322.85, it is determined that a recipient
8 meets the criteria described in subdivision (b), the recipient is
9 eligible to participate in family stabilization.

10 (b) (1) A recipient is eligible to participate in family
11 stabilization if the county determines that his or her family is
12 experiencing an identified situation or crisis that is destabilizing
13 the family and would interfere with participation in welfare-to-work
14 activities and services.

15 (2) A situation or a crisis that is destabilizing the family in
16 accordance with paragraph (1) may include, but shall not be limited
17 to:

18 (A) Homelessness or imminent risk of homelessness.

19 (B) A lack of safety due to domestic violence.

20 (C) Untreated or undertreated behavioral needs, including mental
21 health or substance abuse-related needs.

22 (D) A child in the family has been held in temporary custody
23 in a law enforcement facility pursuant to subdivision (d) of Section
24 207.1.

25 (c) Family stabilization shall include intensive case management
26 and services designed to support the family in overcoming the
27 situation or crisis, which may include, but are not limited to,
28 welfare-to-work activities.

29 (d) Funds allocated for family stabilization in accordance with
30 this section shall be in addition to, and independent of, the county
31 allocations made pursuant to Section 15204.2.

32 (e) Funds allocated for family stabilization in accordance with
33 this section, or the county allocations made pursuant to Section
34 15204.2, may be used to provide housing and other needed services
35 to a family during any month that a family is participating in family
36 stabilization.

37 (f) Each county shall submit to the department a plan, as defined
38 by the department, regarding how it intends to implement the
39 provisions of this section and shall report information to the
40 department, including, but not limited to, the number of recipients

1 served pursuant to this section, information regarding the services
2 provided, outcomes for the families served, and any lack of
3 availability of services. The department shall provide an update
4 regarding this information to the Legislature during the 2014–15
5 budget process.

6 (g) It is the intent of the Legislature that family stabilization be
7 a voluntary component intended to provide needed services and
8 constructive interventions for parents and to assist in barrier
9 removal for families facing very difficult needs. Participants in
10 family stabilization are encouraged to participate, but the
11 Legislature does not intend that parents be sanctioned as part of
12 their experience in this program component. The Legislature further
13 intends that recipients refusing or unable to follow their family
14 stabilization plans without good cause be returned to the traditional
15 welfare-to-work program.

16 *SEC. 25. (a) On and after January 1, 2017, the balance of any*
17 *court-ordered costs imposed pursuant Section 903, 903.15, 903.2,*
18 *903.25, 903.4, 903.5, 903.6, or 903.7 of the Welfare and*
19 *Institutions Code, shall be unenforceable and uncollectable, and,*
20 *on January 1, 2018, the portion of the judgment imposing those*
21 *costs shall be vacated.*

22 *(b) On and after January 1, 2017, the balance of any*
23 *court-ordered costs imposed pursuant Section 903.1 of the Welfare*
24 *and Institutions Code that are related to the rendering of legal*
25 *services to a minor by an attorney pursuant to an order of the*
26 *juvenile court shall be unenforceable and uncollectable, and, on*
27 *January 1, 2018, the portion of the judgment imposing those costs*
28 *shall be vacated.*

29 ~~SEC. 27.~~

30 *SEC. 26.* With regard to certain costs, to the extent that this
31 act has an overall effect of increasing the costs already borne by
32 a local agency for programs or levels of service mandated by the
33 2011 Realignment Legislation within the meaning of Section 36
34 of Article XIII of the California Constitution, it shall apply to local
35 agencies only to the extent that the state provides annual funding
36 for the cost increase. Any new program or higher level of service
37 provided by a local agency pursuant to this act above the level for
38 which funding has been provided shall not require a subvention
39 of funds by the state nor otherwise be subject to Section 6 of Article
40 XIII B of the California Constitution.

1 However, if the Commission on State Mandates determines that
2 this act contains other costs mandated by the state, reimbursement
3 to local agencies and school districts for those costs shall be made
4 pursuant to Part 7 (commencing with Section 17500) of Division
5 4 of Title 2 of the Government Code.

O



Contra Costa County Board of Supervisors

Subcommittee Report

LEGISLATION COMMITTEE

8.

Meeting Date: 05/09/2016
Subject: SB 1170 (Wieckowski) Public Contracts: Water Pollution Prevention Plans
Submitted For: LEGISLATION COMMITTEE,
Department: County Administrator
Referral No.: 2016-17
Referral Name: SB 1170 (Wieckowski) Public Contracts: Water Pollution Prevention Plans
Presenter: Lara DeLaney **Contact:** L. DeLaney, 925-335-1097

Referral History:

This bill was referred to the Legislation Committee by Public Works Director Julie Bueren.

Referral Update:

Senate Bill (SB) 1170 would prohibit a public entity, charter city, or charter county from delegating to a contractor the development of a plan to prevent or reduce water pollution or runoff on a public works contract, or to assume responsibility for the completeness and accuracy of a plan developed by that entity.

Status: Pending, Senate APPROPRIATIONS.

Bill Analysis - 04/18/2016 - Senate Environmental Quality Committee

Existing law:

1) Under the federal Clean Water Act and the state Porter-Cologne Water Quality Control Act:

a) Charges the State Water Resources Control Board (SWRCB) with the regulation and protection of water quality.

b) Prohibits the discharge of pollutants to surface waters unless the discharger obtains a permit from SWRCB.

c) Establishes the National Pollutant Discharge Elimination System (NPDES) permit program requiring the SWRCB and the nine California regional water quality control boards to prescribe waste discharge requirements which, among other things, regulate the discharge of pollutants in stormwater associated with construction activity to waters of the United States from construction sites that disturb one or more acres of land surface, or that are part of a common plan of development or sale that disturb more than one acre of land surface.

2) Prohibits a local public entity, charter city, or charter county from requiring a bidder on a public works contract to assume responsibility for the completeness and accuracy of architectural or engineering plans and specifications on public works projects, except as specified.

This bill:

1) Prohibits a public entity, charter city, or charter county from delegating to a contractor the development of a plan, as defined, used to prevent or reduce water pollution or runoff on a public works contract, except as provided.

2) Prohibits a public entity, charter city, or charter county from requiring a contractor on a public works contract that includes compliance with a plan to assume responsibility for the completeness and accuracy of a plan developed by that entity.

3) Provide that these prohibitions do not apply to contracts that use:

a) Design-build.

b) Best value.

c) Construction manager at-risk contracts where the construction manager is authorized to retain a plan developer for the project owners.

Background

1) Stormwater Pollution Prevention Plans (SWPPP). Public and private owners of construction projects that disturb one or more acres of land must comply with the NPDES Permit (Permit), which regulates the discharge of stormwater and non-stormwater (such as improper dumping, spills, or leakage from storage tanks) from certain construction activities and is enforced by SWRCB's nine Regional Water Quality Control Boards (regional boards). The Permit requires, among other things, the development of an SWPPP that demonstrates compliance with the Permit. An SWPPP is a comprehensive, detailed, site-specific, written document that:

a) Identifies potential sources of stormwater pollution on a construction site;

b) Describes stormwater control measures and Best Management Practices (BMPs) that will be used to reduce or eliminate pollutants in stormwater discharges from the project site, and

c) Identifies the procedures the operator of the project site will implement to comply with the terms and conditions of the Permit.

A project's SWPPP may be developed by the project owner or prepared by a contractor's SWPPP developer. The Permit requires SWPPPs to be prepared and certified by a Qualified SWPPP Developer (QSD), who must be a registered engineer or other licensed professional. Many other SWPPP tasks (such as site inspections) must be conducted directly by, or under the supervision of, a QSD or Qualified SWPPP Practitioner (QSP), who must also be certified. There are extensive qualification and training requirements for both the QSD and QSP.

Typically, the owner of the construction site is designated the "discharger" from the site and is therefore the "Legally Responsible Person" under the Permit.

Consequently, the party required to ensure compliance with the terms of the Permit is the property owner, not the contractor. There are serious potential costs for failure to comply

with the Permit.

Any person who violates a condition of the Permit is subject to a civil penalty, which could be as high as \$37,500 per calendar day of a violation, plus sanctions provided by the Clean Water Act.

2) Public Contracting. The Public Contract Code spells out requirements for public entities when contracting for public works projects. The Local Agency Public Construction Act requires local officials to invite bids for construction projects and then award contracts to the lowest responsible bidder. This design-bid-build method is the traditional, and most widely-used, approach to public works construction. However, over the last two decades, legislators have gradually expanded local governments' authority to procure construction projects using various alternatives to the design-bid-build project delivery method, including "design-build," "construction manager at risk," and "best value" contracting. Chief among the potential benefits of these methods is that they transfer some of the risk associated with the construction from the public entity to the contractor.

State law also controls some aspects of project design and execution. The Professional Engineers Act requires, among other things, engineering and architectural plans to be developed by licensed engineers or architects. Title 12 of the Civil Code (commencing with Section 2772) governs indemnity generally and provides that a contract requiring indemnification of a public agency for that agency's willful misconduct or sole negligence is void. However, Title 12 also provides that parties to a contract, including a public agency, may negotiate liability among themselves for design defects and any other liability relating to the contract. Finally, the Public Contract Code disallows public entities from requiring bidders to assume responsibility for the completeness and accuracy of the designs for public works projects, except on clearly designated design-build projects.

Many public entities require contractors to include in their bids the cost of preparing and implementing SWPPPs, and have begun requiring contract provisions that indemnify the public entity against penalties associated with violations of the Permit and prohibit change orders associated with SWPPPs. In addition, construction costs in California declined sharply for several years beginning in 2007, creating intense competition for projects among contractors, reducing margins. Some contractors want to restrict the ability of public agencies to require contractors to prepare SWPPPs as part of a public works contract.

Contractors work on multiple construction projects over time, or even simultaneously. Accordingly, many develop preexisting relationships with QSDs or employ them within their own organization. Some larger public agencies may also retain their own QSDs, but it doesn't make sense for smaller ones that rarely build new public works to do the same. SB 1170 allows local agencies to contract separately with an engineer or architect for an SWPPP, but this simply puts a public agency in the position of being the general contractor for the project--requiring experience and relationships which smaller agencies may not have. Moreover, SWPPPs are ever-changing documents. Construction projects frequently change in response to unforeseen circumstances or issues with the site, and the SWPPP must be revised to reflect those changes. Contractors who are actually performing work on a site are in the best position to know when the plan must be modified. Requiring the contractor to develop and maintain the SWPPP--and ensuring that the contractor bears the risk of violating the Permit--sets up the right incentives for the people performing the work to ensure that the SWPPP effectively protects water quality. SB 1170 would remove these incentives and increase the burden on unprepared local agencies, potentially resulting in illegal pollutant discharges, fines to the state and local governments, and water quality problems.

Comments

1) Purpose of Bill. According to the author, this bill "ensures that adequate resources are allocated to the pollution prevention planning process by clarifying that public owners are responsible for the preparation of SWPPPs required on public works projects. This bill prohibits public owners from delegating responsibility to contractors for SWPPP design."

The author further argues that "the bill clarifies existing law which requires licensed design professionals to create engineering and architectural plans." The author states that existing law already bars public owners from making contractors assume responsibility for the design of stormwater plans.

The author asserts that this bill "clarifies the intent of the permit designation of project owners as the Legally Responsible Party."

2) Responsibility and Consequences. The Permit defines the "discharger" as "[t]he Legally Responsible Person or entity subject to the General Permit." The Permit defines the Legally Responsible Person as falling into specified eligible categories, including "[a] person, company, agency or other entity that possesses a real property interest . . . in the land upon which the construction or land disturbance activities will occur for the regulated site."

The Permit states a contractor is not qualified to be the Legally Responsible Person, unless they fall into limited categories (those employed and duly authorized on U.S. Army Corp of Engineers Projects or those engaged in pollution and remediation projects).

The Permit is typically held in the name of the property owner. Consequently, the party required to ensure compliance with the Permit is the property owner, not the contractor. The Permit also requires the discharger (i.e., owner) to file Permit registration documents, annual reports and other compliance information. The discharger must certify that the information provided regarding the project site is accurate and complete. The discharger must allow entry to the project site for inspections and provide records required to be kept under the Permit.

Any person who violates a condition of the Permit is subject to a civil penalty, which could be as high as \$37,500 per calendar day of a violation, plus sanctions provided by the Clean Water Act.

3) Contracting Agencies' Perspective. According to staff at SWRCB, the practice of delegating development of an SWPPP to the contractor is neither new nor unusual. This is frequently the practice they see in construction projects that must obtain a Permit and develop an SWPPP. They note that the discharger, or the responsible party for the Permit, is named on the Permit and is always the owner/agency, not the contractor. Thus, responsibility for compliance with the Permit remains with the owner/agency, regardless of which party develops the SWPPP.

SWRCB staff also asserts that most municipalities don't have the expertise to develop SWPPPs and don't have the resources to retain QSDs on staff. QSDs are typically employed by environmental consulting firms that perform the work of developing SWPPPs under contract, either with a contractor (which is more common), or with the owner/agency. (Some large contracting firms keep QSDs on staff, but many smaller firms don't have the resources to do so.)

Local contracting agencies indicate that they often require contractors to design and submit SWPPPs because a contractor's plan or approach for construction dictates the sequence of excavation, backfill, and temporary stockpiling of material on a typical project. They contend that a contractor-designed SWPPP can incorporate an optimal construction sequence selected by the contractor and incorporate it into their SWPPP, thereby maximizing efficiency and reducing costs.

An owner-designed SWPPP would necessarily have to assume a sequence of excavation, etc. (and effects upon drainage) that might occur under one construction sequence/scenario. This might not be the optimum sequence that the contractor would elect to use (and would have incorporated into its own SWPPP plan).

For this reason, it makes more sense to require the party actually responsible for the construction sequence of operations to be the one implementing its sequence into the design of an SWPPP. An owner-designed SWPPP would unnecessarily lock in all bidders to one single type of construction sequence/plan envisioned by the owner prior to the bid opening, one which may not necessarily be the lowest cost option.

4) Mandate. The California Constitution generally requires the state to reimburse local agencies for their costs when the state imposes new programs or additional duties on them. According to the Legislative Counsel's Office, SB 1170 creates a new state-mandated local program. SB 1170 disclaims this mandate by saying that the Legislature finds that there is no mandate in the act. Ultimately, the Commission on State Mandates may make the final determination on whether a mandate exists.

Related/Prior Legislation

The provisions of SB 1170 are similar to those of AB 1315 (Alejo, 2015), except the amendments that were taken to SB 1170 limit the types of projects where the prohibitions apply, and that AB 1315 did not disclaim the state mandate and did not purport to be declaratory of existing law. AB 1315 was held under submission in the Assembly Appropriations Committee.

DOUBLE REFERRAL:

This measure was heard in Senate Governance and Finance Committee on March 30, 2016, and passed out of committee with a vote of 7-0.

SOURCE:

Associated General Contractors

SUPPORT:

American Subcontractors Association, California Chapter
California Legislative Conference of the Plumbing, Heating, and Piping Industry
California Sheet Metal and Air Conditioning Contractors, National Association California
Chapters of the National Electrical Contractors Association
California State Council of Laborers
California-Nevada Conference of Operating Engineers
Northern California Allied Trades
Southern California Contractors Association
United Contractors
Wall and Ceiling Alliance

OPPOSITION:

Association of California Healthcare Districts
Association of California School Administrators
Association of California Water Agencies
California Association of Sanitation Agencies
California Association of School Business Officials
California Municipal Utilities Association
California School Boards Association

California Special Districts Association
California State Association of Counties
California State University
Coalition for Adequate School Housing
League of California Cities
Rural County Representatives of California
Three Valleys Municipal Water District
Urban Counties of California

ARGUMENTS IN SUPPORT:

The support believes that SB 1170 "confirms that the public owner is required to be the 'Legally Responsible Person' under the Permit and this requirement will not be shifted to the contractor. SWPPP design responsibility/risk will be maintained with public owner that best knows the stormwater and drainage characteristics of the site and surrounding areas. The bidding contractor is far less familiar with the site and likely totally unfamiliar with the surrounding area at the time a contract is entered into."

ARGUMENTS IN OPPOSITION:

The opposition states that "on projects that encompass at least one acre of land, SWPPPs must be developed to ascertain potential sources of stormwater pollution on construction sites and identify the control measures needed to be taken during the construction process. SWPPPs must be written, amended and certified by qualified personnel who are knowledgeable in the principles and practice of erosion and sediment controls and possess the skills needed to assess conditions at the construction site that could impact stormwater quality." The opposition argues that "public agencies rely on the expertise of qualified SWPPP developers, known as QSDs, to conduct this work. As agencies do not have the resources nor the regular workload required to employ such personnel throughout the year."

The opposition points out that "SWPPPs are currently in accordance with the general contractor's construction plans. As construction progresses, SWPPPs must often be modified to accommodate the constantly changing conditions of a construction site. The general contractor is in the best position to create the construction plan and contract for the corresponding SWPPP. A general contractor-developed SWPPP can incorporate an optimal construction sequence selected by the contractor thereby maximizing efficiency and reducing costs."

The opposition argues that, "SB 1170 would turn this standing process on its head by prohibiting public agencies from contracting with the general contractor to develop a SWPPP and statutorily restricting the agencies remaining options to an engineer or architect. A separate entity developing a SWPPP would have to assume a sequence of work that might occur under one construction scenario but not another."

Recommendation(s)/Next Step(s):

CONSIDER recommending to the Board of Supervisors a position of "Oppose" on SB 1170 (Wieckowski) Public Contracts: Water Pollution Prevention Plans, as recommended by the Public Works Director.

Attachments

Attachment A: SB 1170 bill text

Attachment B: CSAC Letter

AMENDED IN SENATE APRIL 6, 2016

SENATE BILL

No. 1170

Introduced by Senator Wieckowski
(Coauthor: Senator Hill)
(Coauthor: Assembly Member Alejo)

February 18, 2016

An act to add Section 7107.5 to the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1170, as amended, Wieckowski. Public contracts: water pollution prevention plans: delegation.

Existing law prohibits a local public entity, charter city, or charter county from requiring a bidder on a public works contract to assume responsibility for the completeness and accuracy of architectural or engineering plans and specifications on public works projects, except as specified.

Existing law requires the State Water Resources Control Board and the 9 California regional water quality control boards to prescribe waste discharge requirements in accordance with the National Pollutant Discharge Elimination System (NPDES) permit program established by the federal Clean Water Act and the Porter-Cologne Water Quality Control Act. Existing law regulates the discharge of pollutants in stormwater associated with construction activity to waters of the United States from construction sites that disturbs one or more acres of land surface, or that is part of a common plan of development or sale that disturbs more than one acre of land surface.

This bill would prohibit a public entity, charter city, or charter county from delegating to a contractor the development of a plan, as defined,

used to prevent or reduce water pollution or runoff on a public works contract, except as provided. The bill would also prohibit a public entity, charter city, or charter county from requiring a contractor on a public works contract that includes compliance with a plan to assume responsibility for the completeness and accuracy of a plan developed by that entity. *The bill would provide that these prohibitions do not apply to contracts that use specified procurement methods.* The bill would also declare that this is a matter of statewide concern. The bill would state that its provisions are declaratory of existing law, as specified.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that the Legislature finds there is no mandate contained in the bill that will result in costs incurred by a local agency or school district for a new program or higher level of service which require reimbursement pursuant to these constitutional and statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 7107.5 is added to the Public Contract
2 Code, to read:
3 7107.5. (a) As used in this section, the following definitions
4 shall apply:
5 (1) "Plan" means a stormwater pollution prevention plan, water
6 pollution control program, or any other plan required by a regional
7 water quality control board to prevent or reduce water pollution
8 or runoff on a public works project, pursuant to State Water
9 Resources Control Board Order No. 2009-0009-DWQ.
10 (2) "Plan developer" means a qualified stormwater pollution
11 prevention plan developer or a qualified stormwater pollution
12 prevention plan practitioner as those terms are defined in Appendix
13 5 of State Water Resources Control Board Order No.
14 2009-0009-DWQ.
15 (b) (1) (A) A public entity, charter city, or charter county shall
16 not delegate to a contractor the development of a plan on a public
17 works contract.

1 (B) Subparagraph (A) shall not apply to a contract for
2 architectural or engineering services relating to the development
3 of a plan on a public works contract.

4 (C) This section does not restrict a public entity, charter city,
5 or charter county from contracting with a duly licensed architect
6 or engineer for the design of a plan.

7 (2) A public entity, charter city, or charter county shall not
8 require a contractor on a public works contract that includes
9 compliance with a plan to assume responsibility for the
10 completeness and accuracy of the plan developed by that entity.

11 ~~(e) Subdivision (b) shall apply regardless of the project delivery
12 method required in a public works contract.~~

13 (c) *Subdivision (b) shall apply to all public works contracts
14 except contracts that use the following statutorily authorized
15 procurement methods:*

16 (1) *Design-build.*

17 (2) *Best value.*

18 (3) *Construction manager at-risk contracts where the
19 construction manager is authorized to retain a plan developer for
20 the project owners.*

21 (d) Nothing in this section shall be construed to prohibit a local
22 public entity, charter city, or charter county from requiring a bidder
23 or contractor on a public works contract to review any applicable
24 plan and report any errors or omissions noted to the public entity
25 or its plan developer. The review by the contractor shall be limited
26 to the contractor's capacity as a contractor and not as a licensed
27 design professional or plan developer.

28 SEC. 2. The Legislature finds and declares that it is of statewide
29 concern to require a public entity, charter city, or charter county
30 to be responsible for the development of, and completeness and
31 accuracy of, a plan to prevent or reduce water pollution or runoff
32 on a public works project.

33 SEC. 3. The addition of Section 7107.5 to the Public Contract
34 Code made by this act does not constitute a change in, but is
35 declaratory of, existing law, including, but not limited to, Chapter
36 7 (commencing with Section 6700) of Division 3 of the Business
37 and Professions Code, Title 12 (commencing with Section 2772)
38 of Part 4 of Division 3 of the Civil Code, and Section 1104 of the
39 Public Contract Code.

1 SEC. 4. The Legislature finds that there is no mandate
2 contained in this act that will result in costs incurred by a local
3 agency or school district for a new program or higher level of
4 service which require reimbursement pursuant to Section 6 of
5 Article XIII B of the California Constitution and Part 7
6 (commencing with Section 17500) of Division 4 of Title 2 of the
7 Government Code.

O



March 23, 2016

The Honorable Robert Hertzberg
 Chair, Senate Governance and Finance Committee
 State Capitol
 Sacramento, CA 95814

Re: Senate Bill 1170 (Wieckowski)—Oppose [As Introduced]
 Hearing Date: March 30, 2016 – Senate Governance and Finance Committee

Dear Senator Hertzberg:

The organizations listed below must regrettably oppose SB 1170 (Wieckowski) related to stormwater pollution prevention. We represent a broad group of public agencies and organizations that plan, approve, construct, and maintain an extensive range of essential public infrastructure. Unfortunately, as currently written, SB 1170 would add significant new costs and inefficiencies to the delivery of this infrastructure.

On projects that encompass at least one acre of land, Stormwater Pollution Prevention Plans (SWPPPs) must be developed to ascertain potential sources of stormwater pollution on construction sites and identify the control measures needed to be taken during the construction process. SWPPPs must be written, amended, and certified by qualified personnel who are knowledgeable in the principles and practice of erosion and sediment controls and possess the skills needed to assess conditions at the construction site that could impact stormwater quality. Public agencies rely on the expertise of qualified SWPPP developers, known as QSDs, to conduct this work, as agencies do not have the resources nor the regular workload required to employ such personnel throughout the year.

SWPPPs are currently created in accordance with the general contractor's construction plans. As construction progresses, SWPPPs must often be modified to accommodate the constantly changing conditions of a construction site. The general contractor is in the best position to create the construction plan and contract for the corresponding SWPPP. A general contractor-developed SWPPP can incorporate an optimal construction sequence selected by the contractor, thereby maximizing efficiency and reducing costs.

SB 1170 would turn this standing process on its head by prohibiting public agencies from contracting with the general contractor to develop a SWPPP and statutorily restricting the agencies' remaining options to an engineer or architect. A separate entity developing a SWPPP

would have to assume a sequence of work that might occur under one construction scenario but not another. Public agencies, engineers and architects simply do not have the direct control over the day-to-day construction, let alone the expertise, to perform this function.

Ultimately, the success or failure of a SWPPP lies with the general contractor carrying out the plan. If the legislature statutorily shifts the development and liability of the SWPPP to the public agency, or to a design professional or architect, it will create confusion and conflict within the public works process. SB 1170 will only further disconnect the entity responsible for the development of the SWPPP from the entity that performs the work related to the SWPPP. This is akin to asking the public agency or design professional to separately plan and contract for the security of the general contractor's equipment on the job site, the number of portable restrooms needed or any other function that is intimately connected to the performance and sequence of a construction project.

For the aforementioned reasons, we must respectfully oppose SB 1170 as currently drafted. Please do not hesitate to contact any of the signees below if you have any questions about our position.

Sincerely,

Jimmy MacDonald
Legislative Representative
California Special Districts Association

Danielle Blacet
Director of Water
California Municipal Utilities Association

Jean Hurst
Legislative Advocate
Association of California Healthcare Districts

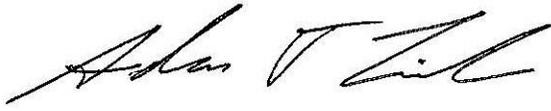
Faith Conley
Legislative Representative
California State Association of Counties

Laura Preston
Legislative Advocate
Association of California School Administrators

Ian Padilla
Legislative Advocate
Coalition for Adequate School Housing

Whitnie Wiley
Legislative Advocate
Association of California Water Agencies

Ronald Berdugo
Legislative Representative
League of California Cities



Adam Link
Director of Governmental Affairs
California Association of Sanitation Agencies



Kathy Mannion
Legislative Advocate
Rural County Representatives of California



Sara Bachez
Assistant Executive Director
California Association of School Business
Officials



Richard Hansen
General Manager
Three Valleys Municipal Water District



Jolena Voorhis
Executive Director
Urban Counties of California



Contra Costa County Board of Supervisors

Subcommittee Report

LEGISLATION COMMITTEE

9.

Meeting Date: 05/09/2016
Subject: State Bills of Interest to Contra Costa County and Federal Issues Update
Submitted For: LEGISLATION COMMITTEE,
Department: County Administrator
Referral No.: 2016-10
Referral Name: Bills of Interest
Presenter: L. DeLaney **Contact:** L. DeLaney, 925-335-1097

Referral History:

The Legislation Committee regularly receives reports from Committee staff on the status of bills of interest to the County. The Committee also regularly receives updates on federal issues.

Referral Update:

The state bills of interest to the County are included in Attachment A.

A report on federal issues of interest to counties, provided by CSAC, is included in Attachment B.

Recommendation(s)/Next Step(s):

ACCEPT the reports on the state bills of interest to Contra Costa County and the federal issues update, and provide direction to staff as needed.

Attachments

Attachment A: State Bills of Interest

Attachment B: Federal Issues Update

Bill Status Report

May 4, 2016

CA AB 21	AUTHOR:	Wood [D]
	TITLE:	Medical Marijuana: Cultivation Licenses
	INTRODUCED:	12/01/2014
	DISPOSITION:	Enacted
	LOCATION:	Chaptered
	SUMMARY:	Amends the Compassionate Use Act of 1996 which authorizes the use of marijuana for medical purposes and provides that the State Department of Food and Agriculture is the sole licensing authority for medical marijuana cultivation applicants a city, county, or city and county to delete the provision that grants the Department the sole licensing authority under that Act. Provides a license exemption does not prevent a local government from exercising its police power authority under the State Constitution.
	STATUS:	
	02/03/2016	Signed by GOVERNOR.
	02/03/2016	Chaptered by Secretary of State. Chapter No. 1
	Commentary:	
		Watching bill.
CA AB 1399	AUTHOR:	Baker [R]
	TITLE:	Income Taxes: Contributions: Domestic Violence Fund
	INTRODUCED:	02/27/2015
	DISPOSITION:	Pending
	LOCATION:	Senate Governance and Finance Committee
	SUMMARY:	Allows an individual to designate on his or her tax return that a specified amount in excess of tax liability be transferred to the State Domestic Violence Fund created by this Act. Requires a portion of the moneys in the fund be distributed as funds to active grant recipients under the Comprehensive Statewide Domestic Violence Program within the Office of Emergency Services.
	STATUS:	
	02/10/2016	From SENATE Committee on GOVERNANCE AND FINANCE with author's amendments.
	02/10/2016	In SENATE. Read second time and amended. Re-referred to Committee on GOVERNANCE AND FINANCE.
	Commentary:	
		Sent support letter from Chair 01.04.16
	POSITION:	Support
CA AB 1554	AUTHOR:	Irwin [D]
	TITLE:	Powdered Alcohol
	INTRODUCED:	01/04/2016
	DISPOSITION:	Pending
	LOCATION:	SENATE

Bill Status Report

May 4, 2016

SUMMARY:

Prohibits the Department of Alcoholic Beverage Control from issuing a license to manufacture, distribute, or sell powdered alcohol, and requires the Department to revoke the license of any licensee who manufactures, distributes, or sells powdered alcohol. Prohibits the purchase, sale, offer for sale, distribution, manufacture, possession, or use of powdered alcohol. Makes a violation of these provisions punishable as an infraction.

STATUS:

04/28/2016 In ASSEMBLY. Read third time. Passed ASSEMBLY.
*****To SENATE. (76-0)

Commentary:

Companion bill to SB 819. Consistent with policy #98. Sent LOS 3/24 for 4/6 hearing.

Position: Support

CA AB 1568

AUTHOR: Bonta [D]

TITLE: Medi-Cal: Demonstration Project

INTRODUCED: 01/04/2016

DISPOSITION: Pending

LOCATION: Assembly Appropriations Committee

SUMMARY:

Establishes the Medi-Cal 2020 Demonstration Project Act. Retains the continuously appropriated Demonstration Disproportionate Share Hospital Fund for safety net care pool payments. Provides for the Global Payment Program, the Public Hospital Redesign and Incentives in Medi-Cal (PRIME) program and the Dental Transformation Initiative. Amends the contract with the external quality review organization regarding assessment of primary, core specialty, and facility access to care for managed care beneficiaries.

STATUS:

05/03/2016 From ASSEMBLY Committee on APPROPRIATIONS with author's amendments.

05/03/2016 In ASSEMBLY. Read second time and amended. Re-referred to Committee on APPROPRIATIONS.

Commentary:

Dr. Walker forwarded. Sending LOS.

CA AB 1592

AUTHOR: Bonilla [D]

TITLE: Autonomous Vehicles: Pilot Project

INTRODUCED: 01/06/2016

DISPOSITION: Pending

LOCATION: Senate Transportation and Housing Committee

SUMMARY:

Authorizes the Contra Costa Transportation Authority to conduct a pilot project for the testing of autonomous vehicles that are not equipped with a steering wheel, a brake pedal, an accelerator, or an operator inside the vehicle, if the testing is

Bill Status Report

May 4, 2016

conducted only at specified locations and the autonomous vehicle operates at specified speeds.

STATUS:

04/28/2016 To SENATE Committee on TRANSPORTATION AND HOUSING.

Commentary:

BOS supported 3/8/16

POSITION: Support

CA AB 1642

AUTHOR: Obernolte [R]

TITLE: State Responsibility Areas: Fire Prevention Fees

INTRODUCED: 01/11/2016

DISPOSITION: Pending

LOCATION: Assembly Appropriations Committee

SUMMARY:

Extends the time when the fire prevention fee is due and payable from the date of assessment by the State Board of Equalization, and authorizes the petition for redetermination to be filed within a specified number of days after service of the notice of determination.

STATUS:

04/06/2016 In ASSEMBLY Committee on APPROPRIATIONS: To Suspense File.

Commentary:

Letter of support requested from AM office. Similar to bill we supported last year.

CA AB 1665

AUTHOR: Bonilla [D]

TITLE: Transactions and Use taxes: County of Alameda

INTRODUCED: 01/14/2016

DISPOSITION: Pending

FILE: 42

LOCATION: Assembly Third Reading File

SUMMARY:

Extends the authority of the County of Alameda to impose a transactions and use tax for the support of countywide transportation programs, and shifts this same taxing authority, or so extended, from the County of Contra Costa to the Contra Costa Transportation Authority.

STATUS:

04/27/2016 In ASSEMBLY. Read second time. To third reading.

Commentary:

BOS supports. John Cunningham handling

CA AB 1692

AUTHOR: Bonilla [D]

TITLE: County Employees Retirement: Contra Costa County

INTRODUCED: 01/21/2016

DISPOSITION: Pending

Bill Status Report

May 4, 2016

COMMITTEE: Assembly Public Employees, Retirement and Social Security Committee

HEARING: 05/04/2016 9:30 am

SUMMARY:

Authorizes the Board of Supervisors of Contra Costa County to apply certain terms and conditions to nonsafety officers and employees who are new members subject to the retirement formulas specified in the Public Employees' Pension Reform Act of 2013 and for whom the board is the governing body.

STATUS:

02/08/2016 To ASSEMBLY Committee on PUBLIC EMPLOYEES, RETIREMENT AND SOCIAL SECURITY.

Commentary:

This is our sponsored bill.

POSITION: Support

CA AB 1697

AUTHOR: Bonilla [D]

TITLE: Alternative and Renewable Fuel and Vehicle Technology

INTRODUCED: 01/21/2016

DISPOSITION: Pending

LOCATION: Assembly Appropriations Committee

SUMMARY:

Amends the Alternative and Renewable Fuel and Vehicle Technology Program. Adds a project's ability, under the Program, to provide a path for trained workers to transition to jobs in the clean technology and renewable fuels sections and a project's ability to promote employment of trained workers in those sectors as additional criteria on which preference under the Program shall be provided. Revises the eligibility criteria for workforce training programs.

STATUS:

04/25/2016 In ASSEMBLY. Read second time and amended. Re-referred to Committee on APPROPRIATIONS.

Commentary:

Stephen Baiter, WDB suggests a Support position.

POSITION: Support

CA AB 1707

AUTHOR: Linder [R]

TITLE: Public Records: Response to Request

INTRODUCED: 01/25/2016

DISPOSITION: Pending

LOCATION: Assembly Local Government Committee

SUMMARY:

Requires a public records denial of a request to be in writing regardless of whether the request was in writing. Requires such response to include a list that contains the title or other identification of each record requested but withheld due to an exemption and the specific exemption that applies to that record.

STATUS:

Bill Status Report

May 4, 2016

03/29/2016 From ASSEMBLY Committee on JUDICIARY: Do pass to
Committee on LOCAL GOVERNMENT. (10-0)

Commentary001:

3/14/16 Leg Com recommends OPPOSE to BOS

CA AB 1713

AUTHOR: Eggman [D]
TITLE: Sacramento-San Joaquin Delta: Peripheral Canal
INTRODUCED: 01/26/2016
DISPOSITION: Pending
LOCATION: Assembly Appropriations Committee
SUMMARY:

Prohibits the construction of a peripheral canal in the Sacramento-San Joaquin Delta unless expressly authorized by an initiative voted on by the voters of California, and requires the Legislative Analyst's Office to complete a prescribed economic feasibility analysis prior to a vote authorizing the construction of a peripheral canal.

STATUS:

04/27/2016 In ASSEMBLY Committee on APPROPRIATIONS: To
Suspense File.

Commentary:

To the BOS on 3/15/16

POSITION: Support

CA AB 1758

AUTHOR: Stone [D]
TITLE: Telecommunications: Advanced Services Fund
INTRODUCED: 02/02/2016
DISPOSITION: Failed
LOCATION: ASSEMBLY
SUMMARY:

Extends the time period for meeting the State Advanced Services Fund program goal and specifies the advanced communication services threshold speeds to be met in achieving the goal. Specifies as a program goal the achievement of a statewide adoption rate of high-speed Internet access. Provides priority for specified projects. Requires development of a plan to implement these provisions in a manner to foster public-private collaboration. Authorizes grants to facilitate such access to low-income households.

STATUS:

04/21/2016 From ASSEMBLY Committee on UTILITIES AND
COMMERCE without further action pursuant to JR 62(a).

Commentary:

Sending LOS.

POSITION: Support

CA AB 1853

AUTHOR: Cooper [D]
TITLE: County Employees Retirement Districts
INTRODUCED: 02/10/2016

Bill Status Report

May 4, 2016

DISPOSITION: Pending
COMMITTEE: Assembly Public Employees, Retirement and Social Security Committee

HEARING: 05/04/2016 9:30 am

SUMMARY:

Relates to the County Employees Retirement Law of 1937 (CERL). Authorizes the retirement board of any retirement system operating under CERL to elect to be a district. Authorizes a board to adopt administrative provisions that would classify various personnel of the retirement system as employees of the retirement system and not employees of the county. Prescribes requirement regarding labor negotiations and continuity of labor agreements.

STATUS:

03/29/2016 From ASSEMBLY Committee on PUBLIC EMPLOYEES, RETIREMENT AND SOCIAL SECURITY with author's amendments.

03/29/2016 In ASSEMBLY. Read second time and amended. Re-referred to Committee on PUBLIC EMPLOYEES, RETIREMENT AND SOCIAL SECURITY.

Commentary:

County Counsel recommends that this bill needs to be watched, and CSAC should be made aware.

CA AB 1897

AUTHOR: Mullin [D]
TITLE: Day Care Centers
INTRODUCED: 02/11/2016
DISPOSITION: Pending
LOCATION: Assembly Appropriations Committee

SUMMARY:

Requires the State Department of Social Services to, adopt regulations that develop and implement a birth to entering first grade license option for day care careers. Requires the regulations to include age appropriate transition times, a requirement that a single integrated license option list the age groups of children being served at a day care center, a requirement that all other licensing regulations that apply to a day care center shall also apply to a birth to entering first grade license option.

STATUS:

04/27/2016 In ASSEMBLY Committee on APPROPRIATIONS: To Suspend File.

Commentary:

Consistent with policy #121. Sending LOS.

POSITION: Support

CA AB 1994

AUTHOR: Lopez [D]
TITLE: CalED Program
INTRODUCED: 02/16/2016
DISPOSITION: Pending

Bill Status Report

May 4, 2016

COMMITTEE: Assembly Appropriations Committee

HEARING: 05/04/2016 9:00 am

SUMMARY:

Creates the CalED Program for the purpose of assisting CalWORKs recipients to obtain high school diplomas or equivalency certificates, under specified eligibility criteria. Provides for a one-time aid supplement if a participant successfully completes high school or a general educational development test approved by the State Board of Education and administered by a testing center approved by the State Department of Education.

STATUS:

05/04/2016 In ASSEMBLY Committee on APPROPRIATIONS: To Suspense File.

Commentary:

Stephen Baiter suggests watching.

POSITION: Watch

CA AB 2058

AUTHOR: Mayes [R]

TITLE: CalWORKs Educational Incentives

INTRODUCED: 02/17/2016

DISPOSITION: Pending

LOCATION: Assembly Appropriations Committee

SUMMARY:

Creates the CalWORKs Educational Opportunity and Attainment Program to provide CalWORKs recipients with an education incentive grant for attainment of a high school diploma or its equivalent, an associates degree, or a bachelor's degree, if either of these is earned while receiving assistance. Requires certification by the county of the participant to ensure receipt of the incentive grant. Appropriates funds for the CalWORKS Recipients Education Program in community colleges.

STATUS:

04/20/2016 In ASSEMBLY. Read second time and amended. Re-referred to Committee on APPROPRIATIONS.

Commentary:

Stephen Baiter suggests watching.

POSITION: Watch

CA AB 2061

AUTHOR: Waldron [R]

TITLE: Supervised Population Workforce training Grant Program

INTRODUCED: 02/17/2016

DISPOSITION: Pending

LOCATION: Assembly Appropriations Committee

SUMMARY:

Relates to the Supervised Population Workforce Training Grant Program and vocational training, and apprenticeship opportunities for individuals on probation, mandatory supervision, and postrelease community supervision. Requires the Workforce Investment Board to give preference to a grant application that proposes

Bill Status Report

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participation by employers who have demonstrated interest in employing individuals in the supervised population. Requires related reports to the Legislature.

STATUS:

04/25/2016 In ASSEMBLY. Read second time and amended. Re-referred to Committee on APPROPRIATIONS.

Commentary:

Stephen Baiter, WDB suggests a Watch position.

POSITION: Watch

CA AB 2092

AUTHOR: Frazier [D]

TITLE: Abandoned Watercraft Abatement Fund: Grants

INTRODUCED: 02/17/2016

DISPOSITION: Pending

COMMITTEE: Assembly Appropriations Committee

HEARING: 05/04/2016 9:00 am

SUMMARY:

Authorizes grants under the Abandoned Watercraft Abatement Fund to be used for abatement, removal, storage, or disposal of commercial vessels.

STATUS:

05/04/2016 In ASSEMBLY Committee on APPROPRIATIONS: To Suspense File.

Commentary:

Supv Piepho concerned about bill; requests input from SO.

CA AB 2105

AUTHOR: Rodriguez [D]

TITLE: Workforce Development: Allied Health Care Professionals

INTRODUCED: 02/17/2016

DISPOSITION: Pending

FILE: 135

LOCATION: Assembly Consent Calendar - Second Legislative Day

SUMMARY:

Requires that the Workforce Development Board prepare and submit a report on the Board's findings regarding earn and learn job training opportunities, models, and programs. Requires the Board to consider the recommendations in the report as to whether such recommendations shall be included in the Board's work plan for the next fiscal year, or expanding the use of apprenticeship program to help prepare allied health care professionals to meet upcoming needs.

STATUS:

05/02/2016 In ASSEMBLY. Read second time. To Consent Calendar.

Commentary:

Stephen Baiter, WDB suggests a Watch position.

POSITION: Watch

CA AB 2128

AUTHOR: Achadjian [R]

TITLE: Marriage

Bill Status Report

May 4, 2016

INTRODUCED: 02/17/2016

DISPOSITION: Pending

LOCATION: SENATE

SUMMARY:

Amends existing law that allows a member of the Armed Force of the United States who is stationed overseas and serving in a conflict or a war and is unable to appear for the license and solemnization of the marriage to enter into that marriage by the appearance of an attorney in fact. Provides that the completion of the power of attorney is the sole determinant as to whether the county clerk's office or State Registrar will accept the power of attorney.

STATUS:

05/02/2016 In ASSEMBLY. Read third time. Passed ASSEMBLY.
*****To SENATE. (76-0)

Commentary:

Support requested by Paul Burgarino, Community Education and Engagement Specialist for Clerk-Recorder.

CA AB 2156

AUTHOR: Levine [D]

TITLE: Public Postsecondary Education

INTRODUCED: 02/17/2016

DISPOSITION: Pending

LOCATION: Assembly Appropriations Committee

SUMMARY:

Requires the California State University (CSU), and requests the University of California (UC), to participate in regional conversations pursuant to the Federal Workforce Innovation and Opportunity Act. Requires CSU, and requests UC, to submit a report to the Legislature on specified topics related to regional workforce demands.

STATUS:

04/27/2016 In ASSEMBLY Committee on APPROPRIATIONS: To
Suspense File.

Commentary:

Stephen Baiter, WDB suggests a Watch position.

EHSD: Watch

CA AB 2285

AUTHOR: McCarty [D]

TITLE: State Employment: Former Foster Youth

INTRODUCED: 02/18/2016

DISPOSITION: Pending

LOCATION: Assembly Appropriations Committee

SUMMARY:

Requires the Department of Human Resources to establish a class in the classification plan that would enable former foster youth who do not otherwise meet the eligibility criteria for any current class to obtain employment with the state. Requires the State Personnel Board to establish an emancipated foster youth

Bill Status Report

May 4, 2016

program to promote the training of qualified foster youth in specified entry level unclassified positions for their eventual hiring in classified positions with any State agency or department.

STATUS:

04/27/2016 In ASSEMBLY Committee on APPROPRIATIONS: To
Suspense File.

Commentary:

Stephen Baiter, WDB suggests a Support position.

POSITION: Support

CA AB 2288

AUTHOR: Burke [D]

TITLE: Apprenticeship Programs

INTRODUCED: 02/18/2016

DISPOSITION: Pending

COMMITTEE: Assembly Appropriations Committee

HEARING: 05/04/2016 9:00 am

SUMMARY:

Requires the Workforce Development Board and each local board to ensure that preapprenticeship training the building and construction trades follows the Multi-Craft Core Curriculum developed by the California Department of Education and that programs and services funded by the federal Workforce Innovation and Opportunity Act of 2014.

STATUS:

05/04/2016 From ASSEMBLY Committee on APPROPRIATIONS: Do
pass.

Commentary:

Stephen Baiter suggests watching

POSITION: Watch

CA AB 2344

AUTHOR: Chang [R]

TITLE: Workforce Development

INTRODUCED: 02/18/2016

DISPOSITION: Pending

LOCATION: ASSEMBLY

SUMMARY:

States the intent of the Legislature to enact legislation to promote and improve workforce development.

STATUS:

02/18/2016 INTRODUCED.

POSITION: Watch

CA AB 2412

AUTHOR: Chang [R]

TITLE: Community Colleges: Grants: Credentials

INTRODUCED: 02/19/2016

DISPOSITION: Pending

Bill Status Report

May 4, 2016

COMMITTEE: Assembly Appropriations Committee

HEARING: 05/04/2016 9:00 am

SUMMARY:

Establishes an incentive grant program for the completion of industry-recognized credential in specified occupational areas by students enrolled at participating campuses of the California Community Colleges. Requires a campus that receive such grant to use the funds to improve its workforce development and career technical education programs. Lists the criteria to be prioritized in the selection of industry-recognized credentials that would be eligible for program funding. Requires a related report.

STATUS:

05/04/2016 In ASSEMBLY Committee on APPROPRIATIONS: To Suspense File.

Commentary:

Stephen Baiter, WDB suggests a Oppose position.

POSITION: Oppose

CA AB 2448

AUTHOR: Burke [D]

TITLE: CalWORKs: Welfare-to-Work: Education

INTRODUCED: 02/19/2016

DISPOSITION: Pending

LOCATION: SENATE

SUMMARY:

Provides that if a county determines that a CalWORK's recipient has not received his or her high school diploma or its equivalent, the recipient may participate in an equivalency program in order to complete a equivalency test. Authorizes the recipient to participate in a high school equivalency program in lieu of participating in a job search or job club. Prohibits requiring the recipient to participate in an assessment before engaging in the program.

STATUS:

04/25/2016 In ASSEMBLY. Read third time. Passed ASSEMBLY. *****To SENATE. (76-0)

Commentary:

Stephen Baiter, WDB suggests a Watch position.

POSITION: Watch

CA AB 2466

AUTHOR: Weber [D]

TITLE: Voting: Felons

INTRODUCED: 02/19/2016

DISPOSITION: Pending

FILE: 3

LOCATION: Assembly Second Reading File

SUMMARY:

Relates to felons and voter eligibility. Defines imprisoned as currently serving a state or federal prison sentence. Defines parole. Clarifies that conviction does not

Bill Status Report

May 4, 2016

include juvenile adjudication. Requires an election statement that a person entitled to register to vote must be a United States citizen, a California resident, not currently in state or federal prison or on state parole for a felony and at least 18 years of age. Requires a court statement furnishing the names of incarcerated individuals.

STATUS:

05/03/2016 In ASSEMBLY. Read second time and amended. To second reading.

Commentary:

Support requested by ACLU, through Supervisor Andersen's office.

CA AB 2502

AUTHOR: Mullin [D]

TITLE: Land Use: Zoning Regulations

INTRODUCED: 02/19/2016

DISPOSITION: Pending

FILE: 54

LOCATION: Assembly Third Reading File

SUMMARY:

Authorizes the legislative body of any city, county, or city and county to adopt ordinances to establish, as a conditions of development, inclusionary housing requirements. Makes nonsubstantive changes.

STATUS:

04/28/2016 In ASSEMBLY. Read second time. To third reading.

Commentary:

Consistent with State Platform, Policy #142. Sending LOS for 4/13 hearing.

POSITION: Support

CA AB 2583

AUTHOR: Frazier [D]

TITLE: Sacramento-San Joaquin Delta Reform Act of 2009

INTRODUCED: 02/19/2016

DISPOSITION: Pending

LOCATION: Assembly Water, Parks and Wildlife Committee

SUMMARY:

Relates to the Sacramento-San Joaquin Delta Reform Act of 2009, the Delta Stewardship Council, the Delta Plan and the California Water Fix. Provides that the new Delta water conveyance infrastructure is interdependent parts of a system. Amends the point of diversion to a point on the Sacramento River. Prohibits construction of a new Delta conveyance facility until contracts are signed by contractors who will receive the water that commit them to pay costs and to mitigate facility property taxes.

STATUS:

04/19/2016 In ASSEMBLY Committee on WATER, PARKS AND WILDLIFE: Failed passage.

Commentary:

Signed on to the DCC support letter 4/5/16

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POSITION: Support

CA AB 2642

AUTHOR: Garcia E [D]

TITLE: Removing Barriers to Employment Act: Initiative

INTRODUCED: 02/19/2016

DISPOSITION: Pending

LOCATION: Assembly Appropriations Committee

SUMMARY:

Enacts the Removing Barriers to Employment Act to establish a specified initiative to create a grant program to assist individuals who have multiple barriers to employment receive the remedial education and work readiness skills that will help these individuals to successfully participate in training, apprenticeship or employment opportunities that enhance skill development. Requires posting related information on the Labor and Workforce Development Agency's Internet Web site.

STATUS:

04/26/2016

In ASSEMBLY. Read second time and amended. Re-referred to Committee on APPROPRIATIONS.

Commentary:

Stephen Baiter, WDB suggests a Support position. CWA sponsoring.

POSITION: Support

CA AB 2719

AUTHOR: Garcia E [D]

TITLE: Workforce Development: Out-of-School Youth

INTRODUCED: 02/19/2016

DISPOSITION: Pending

LOCATION: Assembly Appropriations Committee

SUMMARY:

Includes within the definition of an individual with employment barriers and out-of-school youth. Revises the duties of the Workforce Development Board regarding out of school youth. Defines local workforce development system stakeholders and schools operating in partnership. Provides school districts, county offices of education and secondary schools that provide instruction in partnership with specified programs are eligible to apply to provide basic-diploma skills training.

STATUS:

04/26/2016

In ASSEMBLY. Read second time and amended. Re-referred to Committee on APPROPRIATIONS.

Commentary:

Stephen Baiter, WDB suggests a Oppose position.

POSITION: Oppose

CA AB 2831

AUTHOR: Chang [R]

TITLE: State Community Colleges Economic and Workforce

INTRODUCED: 02/19/2016

DISPOSITION: Pending

Bill Status Report

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LOCATION: ASSEMBLY

SUMMARY:

Makes a nonsubstantive change to existing law that establishes the California Community Colleges Economic and Workforce Development Program.

STATUS:

02/19/2016 INTRODUCED.

Commentary:

Stephen Baiter, WDB suggests a Watch position.

POSITION: Watch

CA SB 45

AUTHOR: Mendoza [D]

TITLE: Federal Workforce Innovation and Opportunity Act

INTRODUCED: 12/12/2014

DISPOSITION: Pending - Carryover

LOCATION: Assembly Labor and Employment Committee

SUMMARY:

Requires the State, in conformity with the federal Workforce Innovation and Opportunity Act, to identify workforce investment planning regions. Requires local boards and chief elected officials to prepare regional plans for those regions. Requires the State Workforce Investment Board to aid the Governor in facilitating system alignment across the core programs of the federal Act. Makes related and conforming changes.

STATUS:

05/14/2015 To ASSEMBLY Committees on LABOR AND EMPLOYMENT and JOBS, ECONOMIC DEVELOPMENT AND THE ECONOMY.

POSITION: Watch

CA SB 66

AUTHOR: Leyva [D]

TITLE: Career Technical Education

INTRODUCED: 01/07/2015

DISPOSITION: Pending

LOCATION: Assembly Business and Professions Committee

SUMMARY:

Requires the Department of Community Affairs to make available to the Office of the Chancellor of the California Community Colleges any licensure information the Department has in electronic format for its boards, bureaus, commissions, or programs for the sole purpose of enabling the Office to measure employment outcomes of students who participate in career technical education programs offered by the California Community Colleges and recommend how these program may be improved.

STATUS:

04/28/2016 To ASSEMBLY Committees on BUSINESS AND PROFESSIONS and HIGHER EDUCATION.

Commentary:

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Stephen Baiter, WDB suggests a watch position.

POSITION: Watch

CA SB 554

AUTHOR: Wolk [D]

TITLE: Delta Levee Maintenance

INTRODUCED: 02/26/2015

DISPOSITION: Pending

LOCATION: Assembly Water, Parks and Wildlife Committee

SUMMARY:

Relates to the maintenance or improvement of project or nonproject levees in the Sacramento-San Joaquin Delta. Declares legislative intent to reimburse up to a certain percent of costs incurred in any year for the maintenance or improvement of levees in excess of a specified sum per mile of levee and authorizes a specified board to advance funds in an amount that does not exceed a certain percent of the estimated state share to an eligible local agency.

STATUS:

04/28/2016 To ASSEMBLY Committee on WATER, PARKS AND WILDLIFE.

Commentary:

Sending letter of support. Consistent with Water Platform.

POSITION: Support

CA SB 815

AUTHOR: Hernandez [D]

TITLE: Medi-Cal: Demonstration Project

INTRODUCED: 01/04/2016

DISPOSITION: Pending

LOCATION: Senate Appropriations Committee

SUMMARY:

Establishes the Medi-Cal 2020 Demonstration Project Act. Retains the Demonstration Disproportionate Share Hospital Fund. Requires a Global Payment Program and related fund. Provides program funds are in lieu of disproportionate share hospital payments. Provides for the Public Hospital Redesign and Incentives in Med-Cal program. Provides the details for funding under the program. Requires a Whole Person Care pilot program and fund, and a Dental Transformation Initiative.

STATUS:

05/03/2016 From SENATE Committee on APPROPRIATIONS with author's amendments.

05/03/2016 In SENATE. Read second time and amended. Re-referred to Committee on APPROPRIATIONS.

Commentary:

Dr. Walker recommends Support. Sending LOS.

POSITION: Support

CA SB 819

AUTHOR: Huff [R]

TITLE: Powdered Alcohol

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May 4, 2016

INTRODUCED: 01/05/2016
DISPOSITION: Pending
LOCATION: ASSEMBLY
SUMMARY:

Prohibits the Department of Alcoholic Beverage Control from issuing a license to manufacture, distribute, or sell powdered alcohol, and requires the department to revoke the license of any licensee who manufactures, distributes, or sells powdered alcohol. Prohibits the possession, purchase, sale, offer for sale, distribution, or use of powdered alcohol and makes the violation of these provisions punishable as an infraction.

STATUS:

04/18/2016 In SENATE. Read third time. Passed SENATE. *****To ASSEMBLY. (39-0)

Commentary:

Consistent with policy #98. Sending LOS for 3/8 & 4/11 hearings.

POSITION: Support

CA SB 885

AUTHOR: **Wolk [D]**
TITLE: Construction Contracts: Indemnity
INTRODUCED: 01/19/2016
DISPOSITION: Pending
LOCATION: Senate Second Reading File

SUMMARY:

Specifies, for construction contracts, that a design professional only the has the duty to defend claims that arise out of, or pertain or relate to, negligence, recklessness, or willful misconduct of the design professional. Provides that a design professional would not have a duty to defend claims or lawsuits against any other person or entity arising from a construction project, except that person or entity's reasonable defense costs arising out of the design professional's degree of fault.

STATUS:

05/03/2016 From SENATE Committee on JUDICIARY: Do pass as amended.

Commentary:

3/14/16 Leg Com recommends additional information from author before position of Oppose or OUA.

CA SB 910

AUTHOR: **Berryhill [R]**
TITLE: CalWORK's
INTRODUCED: 01/26/2016
DISPOSITION: Pending
LOCATION: Senate Rules Committee

SUMMARY:

Makes a technical, nonsubstantive change to a provision of existing law relative to the CalWORK's program.

STATUS:

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02/04/2016 To SENATE Committee on RULES.

Commentary:

Stephen Baiter, WDB suggests a watch position.

POSITION: Watch

CA SB 941

AUTHOR: Mitchell [D]

TITLE: Juveniles

INTRODUCED: 02/03/2016

DISPOSITION: Pending

LOCATION: Senate Appropriations Committee

SUMMARY:

Provides fees related to local home detention programs are only payable by adults. Authorizes a court to order a defendant to pay a reasonable fee related to drug and substance abuse testing only if the defendant is an adult. Deletes the authorization to charge a minor that fee. Revises provisions regarding the amount of county support required for care and custody of ward, dependent children, or other minor person. Repeals a foster parent training fund. Relates to welfare family destabilization.

STATUS:

04/19/2016 From SENATE Committee on PUBLIC SAFETY: Do pass to Committee on APPROPRIATIONS. (6-1)

Commentary:

CAO requesting Leg Com input on bill

CA SB 966

AUTHOR: Mitchell [D]

TITLE: Controlled Substances: Sentence Enhancements

INTRODUCED: 02/08/2016

DISPOSITION: Pending

FILE: 22

LOCATION: Senate Third Reading File

SUMMARY:

Repeals provisions of law imposing on a person convicted of a violation of, or of conspiracy to violate, specified crimes relating to controlled substances a full, separate, and consecutive term for each prior conviction of specified controlled substances crimes.

STATUS:

04/25/2016 In SENATE. Read third time. Failed to pass SENATE. (18-16)

04/25/2016 In SENATE. Motion to reconsider.

04/25/2016 In SENATE. Reconsideration granted.

Commentary:

PD sent her own letter of support

CA SB 1029

AUTHOR: Hertzberg [D]

TITLE: Debt and Investment Advisory Commission: Accountability

INTRODUCED: 02/12/2016

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DISPOSITION: Pending
COMMITTEE: Senate Appropriations Committee
HEARING: 05/09/2016 10:00 am

SUMMARY:

Requires the Debt and Investment Advisory Commission to track and report on all state and local outstanding debt until fully repaid or redeemed. Requires a State and local agency to submit an annual report for any issue of debt for which it has submitted a report of final sale. Requires the report to cover a specified calendar time period and to include specified information about debt issued and outstanding and the use of the proceeds from debt during the reporting period.

STATUS:

04/27/2016 From SENATE Committee on APPROPRIATIONS with author's amendments.

04/27/2016 In SENATE. Read second time and amended. Re-referred to Committee on APPROPRIATIONS.

Commentary:

Tim Ewell is monitoring in CAO office.

CA SB 1170

AUTHOR: Wieckowski [D]
TITLE: Public Contracts: Water Pollution Prevention Plans
INTRODUCED: 02/18/2016
DISPOSITION: Pending
LOCATION: Senate Appropriations Committee

SUMMARY:

Relates to public contracts and pollution prevention plans. Prohibits a public entity, charter city, or charter county from delegating to a contractor the development of a plan to prevent or reduce water pollution or runoff on a public works contract, or to assume responsibility for the completeness and accuracy of a plan developed by that entity. Provides these prohibitions do not apply to contracts that use specified procurement methods.

STATUS:

04/20/2016 From SENATE Committee on ENVIRONMENTAL QUALITY: Do pass to Committee on APPROPRIATIONS. (7-0)

Commentary:

CSAC requesting support letters. JB concurs.

CA SB 1174

AUTHOR: McGuire [D]
TITLE: Medi-Cal: Children: Prescribing Patterns:Medications
INTRODUCED: 02/18/2016
DISPOSITION: Pending
LOCATION: Senate Appropriations Committee

SUMMARY:

Requires the Medical Board to conduct an analysis of data regarding Medi-Cal prescribers and their prescribing patterns of psychotropic medications and related

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services data provided by specified State agencies. Requires a breakdown by specified population include children in foster care. Requires reports to the results of the analysis of that data. Requires the Board to review the data for violations and to take specified disciplinary action for violations. Provides priority with respect to such reviews.

STATUS:

04/25/2016 In SENATE Committee on APPROPRIATIONS: To Suspense File.

Commentary:

Consistent with State Platform, policy #98. Send LOS.

POSITION: Support

CA SB 1291

AUTHOR: Beall [D]

TITLE: Medi-Cal: Specialty Mental Health: Children and Youth

INTRODUCED: 02/19/2016

DISPOSITION: Pending

COMMITTEE: Senate Appropriations Committee

HEARING: 05/09/2016 10:00 am

SUMMARY:

Requires each mental health plan to submit a foster care mental health service plan to a specified department detailing the service array, from prevention to crisis services, available to Medi-Cal eligible children and youth under the jurisdiction of the juvenile court and their families. Requires plan review and public postings.

STATUS:

04/14/2016 In SENATE. Read second time and amended. Re-referred to Committee on APPROPRIATIONS.

Commentary:

Consistent with State Platform, policy #98. Send LOS.

POSITION: Support

CA SB 1386

AUTHOR: Wolk [D]

TITLE: Resource Conservation: Working and Natural Lands

INTRODUCED: 02/19/2016

DISPOSITION: Pending

FILE: 59

LOCATION: Senate Third Reading File

SUMMARY:

Declares it to be the policy of the State that protection and management of natural and working lands is a key strategy in meeting the state's greenhouse gas reduction goals. Requires all relevant State agencies, departments, boards, and commissions to consider this policy when revising, adopting, or establishing policies, regulations, expenditures, and grant criteria relating to the protection and management of natural and working lands.

STATUS:

05/03/2016 In SENATE. Read second time. To third reading.

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Commentary:

Consistent with Platform. Sending LOS

CA SB 1410

AUTHOR: Morrell [R]
TITLE: California Workforce Investment Act
INTRODUCED: 02/19/2016
DISPOSITION: Pending
LOCATION: Senate Rules Committee
SUMMARY:

Makes a technical, nonsubstantive changes to existing law which establishes the Consolidated Work Program Fund for receiving moneys deposited pursuant to the federal Workforce Investment Act.

STATUS:

03/10/2016 To SENATE Committee on RULES.

Commentary:

Stephen Baiter, WDB suggests a watch position.

POSITION: Watch

CA SB 1427

AUTHOR: Pavley [D]
TITLE: Workforce Development: Developmentally Disabled
INTRODUCED: 02/19/2016
DISPOSITION: Pending
LOCATION: Senate Appropriations Committee
SUMMARY:

Requires the Department of Developmental Services to establish a Work Transition Project with guidelines and an approved process for regional centers to allow blended or braided forms of integrated services using allowable services under existing law and to assist in the state's efforts to reach compliance with the federal Home and Community-Based Services Waiver regulations. Authorizes the waiver of certain regulatory requirements.

STATUS:

05/02/2016 In SENATE Committee on APPROPRIATIONS: To Suspense File.

Commentary:

Stephen Baiter, WDB suggests a watch position.

POSITION: Watch

CA SB 15 b

AUTHOR: Hernandez [D]
TITLE: Medi-Cal: Managed Care Organization Tax
INTRODUCED: 02/08/2016
DISPOSITION: Failed
LOCATION: SENATE
SUMMARY:

Establishes a new managed care organization provider tax, to be administered by the State Department of Health Care Services. Provides that the tax would be assessed

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by the Department on licensed health care service plans, managed care plans contracted with the Department to provide Medi-Cal services, and alternate health care service plans. Provides exclusions. Establishes the Health and Human Services Special Fund. Reduces the gross premiums tax rate for specified insurers.

STATUS:

03/10/2016

From SENATE Committee on PUBLIC HEALTH AND DEVELOPMENTAL SERVICES without further action.

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CALIFORNIA STATE ASSOCIATION OF COUNTIES

Federal Issues Update

JOE KRAHN

April 22, 2016

Lawmakers continued the week of April 18 to devote significant time and attention to the advancement of the fiscal year 2017 appropriations process. In the House, the Appropriations Committee cleared on April 19 its Energy & Water (E&W) and Agriculture spending bills. Approval of the legislation comes on the heels of last week's committee action on the Military Construction-Veterans Affairs (MilCon-VA) funding measure.

Across Capitol Hill, the Senate Appropriations Committee recently passed their respective versions of the fiscal year Commerce-Justice-Science (CJS), E&W, Milcon-VA, and Transportation-Housing and Urban Development (T-HUD) spending legislation. Additionally, the full Senate this week began floor consideration of the E&W appropriations measure, which provides funding for, among other agencies, the Bureau of Reclamation and the U.S. Army Corps of Engineers.

Separately, Senate appropriators – along with their House counterparts – are working on an emergency supplemental spending bill to help combat the Zika virus. Funding to address the public health threat has remained highly contentious, as Republicans have charged that the Obama administration has not supplied Congress with sufficient information about how the emergency funding would be allocated. According to Senate leaders, a Zika spending deal is in the works and will likely be offered as an amendment to one of the pending appropriations measures.

It should be noted that this year's appropriations process is advancing in the absence of a final budget resolution. In the House, the Budget Committee-approved resolution (H Con Res 125) remains stalled amid internal Republican disputes over topline spending in fiscal year 2017 and beyond. Due to the ongoing standoff, House GOP leaders appear likely to abandon efforts to adopt a formal budget resolution.

Energy and Water Development Appropriations

As reported above, the upper chamber began debating this past week its E&W appropriations legislation. Although the popular spending bill was cleared on a 30-0 committee vote, the measure is facing opposition from a number of Senate conservatives who want to pare down the bill's \$37.5 billion price tag.

In addition to GOP conservatives, the Obama administration opposes the Senate measure, but for different reasons. According to a recently released Statement of Administration Policy (SAP), the White House objects to a number of policy riders that GOP appropriators have included in the spending bill, including language that would prohibit the Army Corps from making any changes to the definition of "fill material" and "discharge of fill material" for the purposes of the Clean Water Act (CWA).

On a related matter, and during floor consideration of the bill, Senator John Hoeven (R-ND) offered an amendment designed to prevent the Corps from spending any funds to implement the Obama administration's controversial Waters of the United States (WOTUS) rule. The amendment failed on a 56-42 vote. The WOTUS rule, which was finalized by the Environmental Protection Agency and the Corps in 2015, has been tied up in the courts and is awaiting further legal action.

It should be noted that the E&W spending legislation includes \$100 million for various Western drought-relief programs and activities. Championed by Senator Dianne Feinstein (D-CA), the funds would build upon the \$100 million that was included for various drought-response programs as part of the fiscal year 2016 omnibus spending law.

The bill also directs the Bureau of Reclamation and the Department of the Interior to use all of the flexibility at their disposal to mitigate the impacts of the drought. Specifically, the Committee Report accompanying the E&W legislation (S Rept. 114-236) directs Reclamation to work with the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and relevant state agencies to undertake comprehensive, real-time monitoring of drought conditions and their impact on endangered species and rely upon the best available science when managing export pumping rates. The Report also instructs Reclamation to work with the U.S. Department of Agriculture to expand efforts to supply small rural communities with water during the current drought.

In the House, the Appropriations Committee approved earlier this week its fiscal year 2017 E&W spending legislation. As expected, Republican appropriators have included in the bill several legislative provisions designed to send additional water deliveries to California's Central Valley. The language – which largely tracks drought legislation passed by the lower chamber in 2015 (HR 2898) – would require the Department of the Interior to increase Delta pumping under certain conditions. The provisions are strongly supported by Central Valley Republicans but have drawn fire from members of the state's Democratic congressional delegation.

The House bill also includes several policy riders, including language that would prohibit the Army Corps from spending any funds to implement the Obama administration's WOTUS regulation. Like the Senate bill, the House measure also includes language that would prevent any changes to the definition of "fill material" for purposes of the CWA.

Looking ahead, it is unclear when, or if, the full House will take up the E&W spending package.

CJS Appropriations

On April 21, the Senate Appropriations Committee approved its fiscal year 2017 CJS funding bill. All told, the legislation would spend \$56.3 billion, or \$563 million more than the fiscal year 2016 enacted level.

With regard to funding for state and local law enforcement assistance, the Senate bill would provide nearly \$1.2 billion in fiscal year 2017. The proposed funding is roughly \$227 million below current spending and \$83 million more than President Obama's budget request.

Of the aforementioned total, \$100 million would be provided for the State Criminal Alien Assistance Program (SCAAP), a cut of \$110 million. It should be noted that the upper chamber typically provides limited funding for SCAAP, with senators dedicating resources to other local justice programs. However, the House has consistently endorsed higher SCAAP funding levels, resulting in a more favorable appropriation.

Additionally, the Senate bill includes \$384 million for Byrne Justice Assistance Grants (Byrne-JAG), an \$8 million increase. The measure also would provide \$215 million – a proposed \$3 million boost – for the Community Oriented Policing Services (COPS) program. Of that total, \$187 million would be set aside for COPS hiring grants.

It should be noted that the Senate legislation includes language directing the Department of Justice to ensure that all SCAAP, Byrne-JAG, and COPS program applicants are required to certify that they are in compliance with all applicable federal laws – and that they will continue to

remain in compliance throughout the duration of their grant award period. The language is designed to prevent so-called "sanctuary cities" from receiving federal justice grant funding in fiscal year 2017.

The Senate CJS measure also would dedicate \$2.95 billion for the Crime Victims Fund (CVF), which is \$85 million shy of current spending but \$957 million above the Obama administration's budget request. As occurred in fiscal year 2016, the committee voted to transfer \$379 million from the CVF to the Office on Violence Against Women. Additionally, the panel adopted an amendment that would carve out five percent of CVF funds for grants to Indian tribal governments to improve services and justice for victims of crime.

While the committee estimates that nearly \$2.6 billion would be disbursed to States for programs funded under the Victims of Crime Act (VOCA) statute, the aforementioned tribal carve out – along with several other set-asides – would leave roughly \$2.14 billion for VOCA assistance grants. If enacted, fiscal year 2017 VOCA program funding would be roughly 9 percent less than current levels.

Finally, the Senate Appropriations Committee adopted an amendment to the CJS spending bill clarifying that no DOJ funds can be used to prevent any state from implementing its own laws that authorize the use, distribution or cultivation of medical marijuana.

Transportation – Housing and Urban Development Appropriations

On April 21, the Senate Appropriations Committee unanimously approved its fiscal year 2017 T-HUD spending bill. The \$56.5 billion measure, which funds a number of key local government programs, is \$827 million below current spending levels and nearly \$3 billion less than the president's budget request. However, the panel was able to cancel unspent funds from past years and make use of higher estimated revenue from the Federal Housing Administration, so the bill would actually increase net funding by approximately \$1.4 billion.

Among other things, the T-HUD bill would provide approximately \$43.3 billion for highway programs and just over \$9.3 billion for transit programs, both of which are consistent with the recently enacted surface transportation law (FAST Act; PL 114-94). The bill also would increase funding by \$25 million for the Department of Transportation's (DOT) popular TIGER grant program. With regard to housing programs, the legislation would provide level funding for the Community Development Block Grant (CDBG) and the HOME Investment Partnerships program. The measure also includes a slight boost in funding for Homeless Assistance Grants.

FAA Reauthorization

After more than two weeks of debate, the Senate approved on April 19 legislation (HR 636) that would reauthorize the Federal Aviation Administration (FAA). The bill, which was cleared by the upper chamber on a 95-3 vote, would renew FAA programs and aviation-related excise taxes through September of 2017.

Of particular interest to counties, the legislation would increase funding for the Airport Improvement Program (AIP) by \$400 million to an annual amount of \$3.75 billion. AIP provides grants to public agencies for the planning and development of public-use airports. The legislation also would fund the Essential Air Services (EAS) program – which provides subsidies for air service to small and remote airports – at current levels. In addition, the measure would provide \$10 million for the Small Community Air Service Development Program (SCASDP), which is \$4 million more than the currently authorized level. Similar to EAS, SCASDP grants are designed to help rural counties address issues involving air service and airfare.

It should be noted that lawmakers on the Senate Finance Committee were hoping to use the FAA bill as a vehicle to advance a variety of tax-related add-ons. For example, one provision would have provided a five-year extension of tax credits for renewable energy, including fuel cells, geothermal, and wind. The proposed package also included incentives for carbon dioxide sequestration projects, as well as a number of tax breaks for brewers of beer, wine, and spirits. After facing criticism from both parties, Senate leaders agreed to move forward with a “clean” bill instead.

In the House, a six-year FAA renewal bill (HR 4441) is currently awaiting floor action. Entitled the Aviation Innovation, Reform, and Reauthorization (AIRR) Act, the legislation includes a number of major aviation reforms, including a controversial proposal to reform the air traffic control (ATC) system by removing it from the FAA and placing it in a federally-chartered non-profit corporation. The proposal faces stiff opposition from congressional Democrats, as well as some Republican members of the Appropriations and Ways and Means Committees.

It should be noted that Representative Grace Napolitano (D-CA) is expected to offer a floor amendment that would clarify that local sales tax measures of general application are not subject to provisions of federal law that require the proceeds of certain taxes to be spent for aviation purposes. The amendment, which was initially offered during the Transportation & Infrastructure Committee’s consideration of the FAA rewrite, was defeated on a voice vote and subsequently withdrawn prior to a recorded vote.

The impetus for the Napolitano amendment is a 2014 FAA ruling (79 FR 66282) that requires States and local governments to spend the proceeds of any aviation-related tax – those derived from excise taxes and local sales taxes – on airport uses only. According to the FAA, “the agency interpreted the provisions of Sections 47107(b) and 47133 [49 USC] to apply to any state or local tax on aviation fuel, whether the tax was specifically targeted at aviation fuel or was a general sales tax on products that included aviation fuel without exemption.” Incidentally, the Conference Report to the Airport and Airway Improvement Act (PL 100-223), which houses the statute in question, states that the requirement was “intended to apply to local fuel taxes only, and not to other taxes imposed by local governments, or to state taxes” (Conf. Rept. No. 484, 100th Cong., 1st Sess. 1987 accompanying PL 100-223).

It is estimated that the FAA’s policy amendment will mean a loss of over \$100 million for the State of California and its local governments. Nationwide, a recent study suggests that state and local governments will lose roughly \$190 million a year under the FAA rule change.

Furthermore, because sales taxes on aviation fuel are not segregated from other taxable sources, state and local governments will need to implement an extensive new tracking system(s) in order to comply with the FAA’s policy.

Looking ahead, Senate leaders are urging their House counterparts to take up and pass the upper chamber’s aviation renewal measure. House committee leaders, however, are resisting those calls and have indicated their preference for moving their own FAA renewal bill.