



Orange County Fire Authority
AGENDA STAFF REPORT

Executive Committee Meeting
March 28, 2024

Agenda Item No. 2E
Consent Calendar

Legislative Report

Contact(s) for Further Information

Robert C. Cortez, Assistant Chief
Business Services Department

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714.573.6012

Summary

This item is submitted to inform the Committee of legislation that staff has identified for tracking, and in some cases, for adopted positions.

Prior Board/Committee Action

On March 20, 2024, the Legislative and Public Affairs Committee reviewed the proposed agenda item and directed staff to place the item on the Executive Committee agenda by a vote of 4-1 (Directors Duncan and Mallari absent and Director Wagner dissented). The Committee also requested staff to obtain Fact Sheets for those bills in which staff is recommending positions, and to ensure that the descriptions in the State Bill Matrix are updated for recent changes. Staff is working with the State lobbyist to gather the requested Fact Sheets and updated descriptions. We will distribute any supplemental information that is available prior to the March 28 meeting.

RECOMMENDED ACTION(S)

Receive and file the Legislative Report and adopt the Legislative and Public Affairs Committee recommended bill positions, in alignment with the Board-adopted Legislative Platform.

Impact to Cities/County

Not Applicable.

Fiscal Impact

Not Applicable.

Background

The attached Legislative Report provides an update on the State's budget deficit and other relevant legislative and budgetary activity taking place at the State and Federal level. Additionally, the report provides a matrix of bills that are of interest to the OCFA with recommended bill positions based on Executive Management and State lobbyist review. Staff and our lobbyists provided an oral report and solicited input and direction from the Legislative and Public Affairs Committee.

Regarding the 2024 State bill matrix with recommendations (Attachment 2), a recommended position of "support or oppose", once adopted, may result in a letter to the author. Bills identified with a recommendation to "monitor," will be tracked for additional amendments or analysis that may help clarify impacts. As bills are amended, staff will return to the Legislative and Public Affairs Committee for further discussion and direction.

Attachment(s)

1. State Lobbyist Report
2. 2024 State Bill Matrix with Recommendations
3. Federal Lobbyist Report

ATTORNEY WORK PRODUCT
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Attachment 1

TO: Robert C. Cortez
Assistant Chief, Business Services
Orange County Fire Authority (OCFA)

FROM: John Moffatt
Geoff Neill

DATE: March 13, 2024

RE: 2024 Legislative Report

State Budget Deficit

After the Legislative Analyst's Office estimated that the state would be facing a \$68 billion revenue shortfall, as reported to this committee in December, the Governor in January announced his Administration's estimate that the deficit would only be \$58 billion. January tax revenues promptly fell short of expectations, and the LAO's new deficit estimate is \$73 billion. The LAO also detailed \$15.6 billion of one-time and temporary spending that could be pulled back or reduced, including several wildfire-related programs. The Governor will have a chance to update his estimate when he releases his revised budget proposals in May.

To deal with the shortfall, the Governor in January proposed some cuts (\$11.9 billion), many delays (\$7.2 billion), and using some of the state's reserves (\$18.8 billion).

Among the categories of cuts are \$1.2 billion to various housing programs and \$350 million of legislative requests. The \$3.8 billion of additional MCO Tax support for Medi-Cal is categorized as "internal borrowing." Also of interest from the budget proposal, CAL FIRE continues to pursue changing

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*ATTORNEY-CLIENT COMMUNICATION
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from a 72-hour workweek to a 66-hour work week over five years beginning this coming November.

The Senate this week has landed on a plan for early action on the budget, some of which if passed and signed could help the state achieve some extra savings, and all of which gives them and the Governor a smaller deficit to solve for this summer. Their plan reportedly includes:

- Cuts to programs - \$3.4 billion
- Deferrals - \$3 billion
- Rainy Day Fund - \$12.2 billion
- MCO Tax borrowing - \$3.8 billion
- Greenhouse Gas Reduction Fund shifts and cuts - \$2.3 billion
- Energy funding cuts/delay - \$2 billion
- UC and CSU deferral - \$500 million
- Cut to school facilities - \$500 million
- Cut to early education programs - \$500 million
- State payroll delay from June 30 to July 1 - \$1.6 billion

2024 Bills

Around two thousand bills have been introduced since the 2024 legislative session began. A matrix of bills of interest to OCFA along with recommendations for positions are provided as a separate attachment.



OCFA 2024 State Bill Matrix

The OCFA identified over 80 bills for review since the state bill introduction deadline of February 16, 2024. A substantial number of these bills express “intent” language meaning that the full potential impact cannot be determined. Following is a list of bills identified by staff for official positions and bills we are monitoring due to the subject matter and therefore bringing awareness to the committee.

Category	Bill	Author	Title	Summary	Position
EMS	AB 1792	Rodriguez	Emergency Medical Services: Protective Equipment	Requires the Emergency Medical Services Authority to develop standards, on or before January 1, 2027, for personal protective equipment for ambulance personnel and to update the standards on or before January 1, 2032, and every 5 years thereafter.	Monitor
EMS	AB 2002	Sanchez	Vehicles: Public Safety: Blue Envelope Program	Requires the Department of Motor Vehicles, in consultation with relevant stakeholders, to develop a Blue Envelope Program.	Monitor
EMS	AB 2225	Rodriguez	Discovery: Emergency Medical Services Review Committees	Extends an exemption from discovery as evidence the proceedings and records of specified organized committees of health care professionals and review committees having the responsibility of evaluation and improvement of the quality of care, for purposes of civil proceedings only, to the proceedings and records of emergency medical services organized committees and review committees.	Support
Operations & Community Safety	AB 2344	Petrie-Norris	Fire Prevention: Grant Programs: Reporting	Requires the Wildfire and Forest Resilience Task Force, on or before July 1, 2025, and annually thereafter, to compile and post on its internet website specified information regarding identified state and federal grant programs relating to fire prevention and resilience.	Support
EMS	AB 2348	Rodriguez	Emergency Medical Services	Requires the Emergency Medical Services Authority to develop planning and implementation guidelines for response times. Requires the authority to develop a statewide standard methodology for calculation and reporting by a local EMS agency (LEMSA) of response time. Requires the authority to ensure the guidelines include a list of specified standardized terminology for a LEMSA to use when granting exemptions or when modifying original response time data.	Support
Operations & Community Safety	AB 2384	Wilson	Public swimming Pools: Emergency Telephones.	Requires a person or entity that owns or maintains a public swimming pool, as defined, to ensure that there is an operating telephone on or adjacent to the pool deck, available for emergency use, at all times.	Support

Operations & Community Safety	AB 2594	Emerg. Mgmt Cmte	Emergency Services: Mutual Aid: Gap Analysis	Requires the Office of Emergency Services to prepare a gap analysis of the state's mutual aid systems on a biennial basis, beginning on January 1, 2025. Requires the office to prepare and submit to specified legislative committees a report on a gap analysis in accordance with the bill no later than February 1, 2025, and biennially thereafter by February 1 of subsequent odd-numbered years.	Monitor
Operations & Community Safety	AB 2727	Emerg. Mgmt Cmte	Office of Emergency Services: Maritime Firefighting	Establishes the Maritime Firefighting Mutual Aid Program within OES for the purpose of enhancing maritime firefighting capabilities of local fire departments. Requires, upon appropriation by the Legislature, OES to conduct an all-risk maritime response capabilities assessment, as specified, and acquire and provide fire boats to local fire departments, as specified, and require the local fire departments to utilize the fire boats to enhance local, regional, and mutual aid response capabilities.	Monitor
Operations & Community Safety	AB 2858	Dahle M	California Emergency Services Act: Emergency Plan	Requires the Office of Emergency Services to update the State Emergency Plan every 4 years after the update required on or before a specified date.	Monitor
Operations & Community Safety	AB 3062	Bauer-Kahan	Fire Protection Districts: Electrical Corporations	Authorizes a fire protection district to require an electrical corporation or local publicly owned electric utility to notify the district at least 24 hours before performing scheduled, nonemergency hot work, deploying a safety and infrastructure protection team, or performing a prescribed or controlled burn within the district's jurisdiction, except as provided. Subjects an electrical corporation that fails to provide that notice to a civil penalty of \$500.	Monitor
Operations & Community Safety	AB 3065	Garcia E	Fireworks: Retail Sales	Authorizes the retail sale of certified safe and sane fireworks from 9 a.m. on a specified date to midnight of a specified date of the following year pursuant to a license issued by the State Fire Marshal, if authorized by a charter city, city, county, or city and county ordinance or resolution that may also restrict the hours of use of those fireworks.	Monitor
Operations & Community Safety	AB 3150	Quirk-Silva	Fire safety: Fire Hazard Severity Zones	Requires the State Fire Marshal to provide an opportunity for the public to review and comment on the fire hazard severity zone maps before the State Fire Marshal submits them to the local agency. Requires the State Fire Marshal to develop a process to allow for the petition for a review and potential redesignation of large areas that have undergone a significant change in conditions that would likely result in a decrease in fire hazard based on substantial evidence.	Monitor
Operations & Community Safety	SB 1066	Blakespear	Hazardous waste: marine flares: producer responsibility	Creates a producer responsibility program for marine flares. Defines covered product to mean a pyrotechnic device that produces a brilliant light or a plume of colorful smoke as a visual distress signal on marine vessels to attract attention and pinpoint a boater's location in an emergency.	Support

Administration – Business Svcs.	AB 2095	Maienschein	Publication: Newspapers of General Circulation	Requires a person or other specified entity that is legally required to publish a notice in a newspaper of general circulation or other newspaper to publish that notice in a manner that ensures it appears in the newspaper's print publication, on the newspaper's internet website or electronic newspaper available on the internet, and on a statewide internet website maintained as a repository for notices by a majority of California newspapers of general circulation.	Monitor
Administration - HR	AB 2153	Lowenthal	California Public Records Act: Public Agency Employees	Requires each agency, upon receipt of a request for a copy of, or the inspection of, any personnel, medical, or similar records of a public agency employee or any record that would disclose a public agency employee's personal identity in connection with the performance of that employee's work duties, to promptly and prior to the release of the records, provide written notice of the request to that public agency employee.	Monitor
Administration – Business Svcs.	AB 2283	Pacheco	Public Records: Employee Personnel Records: Notice	Requires a public agency that receives a request for the personnel records of one of the public agency's employees to provide written notice, as prescribed, to the employee within 48 hours of receipt of the request if specified conditions are met.	Monitor
Administration – Business Svcs.	AB 2302	Addis	Open Meetings: Local Agencies: Teleconferences	Relates to existing law which imposes prescribed restrictions on remote participation by a member of a legislative body of a local agency under alternative teleconferencing provisions. Revises the limits, instead prohibiting such participation for more than a specified number of meetings per year, based on how frequently the legislative body regularly meets.	Monitor
Administration - HR	AB 2421	Low	Employer-Employee Relations: Confidential Communication	Prohibits a local public agency employer, a state employer, a public school employer, a higher education employer, or the district from questioning any employee or employee representative regarding communications made in confidence between an employee and an employee representative in connection with representation relating to any matter within the scope of the recognized employee organization's representation.	Monitor
Administration – HR	AB 2538	Grayson	Department of Forestry and Fire Protection	Permits the Director of Forestry and Fire Protection to authorize firefighters hired as permanent intermittent employees to serve for longer than 9 months in a consecutive 12-month period to confront emergency fire conditions and personnel shortages.	Monitor
Administration – Business Svcs.	AB 2579	Quirk-Silva	Property Tax Revenue Allocations: County of Orange	Requires the auditor of the County of Orange to increase the total amount of ad valorem property tax revenue that is otherwise required to be allocated to the county by the county equity amount, and to commensurately decrease the amount of ad valorem property tax revenue that is otherwise required to be allocated to the county Educational Revenue Augmentation Fund and, if necessary, the amount of those revenues otherwise required to be allocated to school districts.	Support

Administration – Business Svcs.	AB 2631	Fong M	Local Agencies: Ethics Training	Requires the Fair Political Practices Commission, in consultation with the Attorney General, to create, maintain, and make available to local agency officials an ethics training course, as specified.	Monitor
Administration – Business Svcs.	AB 2660	Emerg. Mgmt Cmte	Office of Emergency Services: Federal Grant Funding	Requires the Office of Emergency Services (OES), to the extent permitted by federal law, to provide to local operational areas and urban areas the maximum local share of federal grant funding administered by the office from specified federal grant programs relating to emergency management and homeland security.	Monitor
Administration – Business Svcs.	AB 2715	Boerner	Ralph M. Brown Act: Closed Session	Authorizes a closed session of a legislative body of a local agency to consider or evaluate matters related to cybersecurity, as specified, provided that any action taken on those matters is done in open session.	Monitor
Administration – Business Svcs.	SB 908	Cortese	Public Records: Legislative Records: Electronic Message	Prohibits an elected or appointed official or employee of a public agency from creating or sending a public record using a nonofficial electronic messaging system unless the official or employee sends a copy of the public record to an official electronic messaging system. This bill has been amended to an entirely different subject matter.	Monitor
Administration - HR	SB 1090	Durazo	Unemployment Insurance: Disability, Paid Family Leave	Requires, for purposes of unemployment compensation disability benefits, the issuance of the initial payment for those benefits within 14 days of receipt of the claimant's properly completed first disability claim or as soon as eligibility begins, whichever is later.	Monitor
Administration - HR	SB 1116	Portantino	Unemployment Insurance: Trade Disputes: Eligibility	Restores unemployment insurance eligibility after the first 2 weeks for an employee who left work because of a trade dispute.	Monitor
Administration – Business Svcs.	SB 1325	Durazo	Public contracts: Best Value Procurement	Authorizes a state or local agency to award contracts through a "best value" procurement method.	Support
Administration - HR	SB 1346	Durazo	Workers Compensation: Aggregate Disability Payment	Authorizes temporary disability benefits if a denial of treatment requested by a treating physician is subsequently overturned by independent medical review. Prohibits the temporary disability from exceeding the time from the date of the treatment denial through the date of the independent medical review determination overturning the treatment denial.	Monitor
Administration - HR	SB 1434	Durazo	Unemployment Insurance Benefit and Contribution	Changes the amount of remuneration that is excluded from the definition of wages as specified relative to unemployment insurance benefits. Requires an annual cost of living increase in benefits.	Monitor



OCFA 2024 State Bill Matrix – Bill Status as of March 25, 2024

Category	Bill	Author	Title	Summary	Position	Status
EMS	AB 2225	Rodriguez	Discovery: Emergency Medical Services Review Committees	Extends an exemption from discovery as evidence the proceedings and records of specified organized committees of health care professionals and review committees having the responsibility of evaluation and improvement of the quality of care, for purposes of civil proceedings only, to the proceedings and records of emergency medical services organized committees and review committees.	Support	Assembly Floor. Passed Assembly Judiciary Committee 12-0.
Operations & Community Safety	AB 2344	Petrie-Norris	Fire Prevention: Grant Programs: Reporting	Requires the Wildfire and Forest Resilience Task Force, on or before July 1, 2025, and annually thereafter, to compile and post on its internet website specified information regarding identified state and federal grant programs relating to fire prevention and resilience.	Support	Awaiting hearing in Assembly Appropriations Committee. Passed Assembly Natural Resources 11-0.
EMS	AB 2348	Rodriguez	Emergency Medical Services	Requires the Emergency Medical Services Authority to develop planning and implementation guidelines for response times. Requires the authority to develop a statewide standard methodology for calculation and reporting by a local EMS agency (LEMSA) of response time. Requires the authority to ensure the guidelines include a list of specified standardized terminology for a LEMSA to use when granting exemptions or when modifying original response time data.	Support	Awaiting hearing. Referred to Assembly Emergency Management Committee and Assembly Health Committee.
Operations & Community Safety	AB 2384	Wilson	Public swimming Pools: Emergency Telephones.	Requires a person or entity that owns or maintains a public swimming pool, as defined, to ensure that there is an operating telephone on or adjacent to the pool deck, available for emergency use, at all times.	Support	Awaiting hearing. Referred to Assembly Health Committee.
Operations & Community Safety	SB 1066	Blakespear	Hazardous waste: marine flares: producer responsibility	Creates a producer responsibility program for marine flares. Defines covered product to mean a pyrotechnic device that produces a brilliant light or a plume of colorful smoke as a visual distress signal on marine vessels to attract attention and pinpoint a boater's location in an emergency.	Support	April 3 hearing in Senate Environmental Quality Committee. Awaiting hearing in Senate Judiciary Committee.

Administration – Business Svs.	AB 2579	Quirk-Silva	Property Tax Revenue Allocations: County of Orange	Requires the auditor of the County of Orange to increase the total amount of ad valorem property tax revenue that is otherwise required to be allocated to the county by the county equity amount, and to commensurately decrease the amount of ad valorem property tax revenue that is otherwise required to be allocated to the county Educational Revenue Augmentation Fund and, if necessary, the amount of those revenues otherwise required to be allocated to school districts.	Support	Awaiting hearing in Assembly Local Government Committee.
Administration – Business Svs.	SB 1325	Durazo	Public contracts: Best Value Procurement	Authorizes a state or local agency to award contracts through a "best value" procurement method.	Support	April 9 hearing in Senate Governmental Organization Committee. Awaiting hearing in Senate Local Government Committee.

AMENDED IN ASSEMBLY MARCH 14, 2024

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

ASSEMBLY BILL

No. 2225

Introduced by Assembly Member Rodriguez

February 7, 2024

An act to amend Section 1157 of the Evidence Code, relating to evidence.

LEGISLATIVE COUNSEL'S DIGEST

AB 2225, as amended, Rodriguez. Discovery: ~~emergency medical services~~ *prehospital emergency medical care person or personnel* review committees.

Existing law exempts from discovery as evidence the proceedings and records of specified organized committees of health care professionals and review committees having the responsibility of evaluation and improvement of the quality of care.

This bill would extend this exemption, for purposes of civil proceedings only, to the proceedings and records of ~~emergency medical services~~ *prehospital emergency medical care person or personnel* organized committees and review committees, as described above.

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 1157 of the Evidence Code is amended
- 2 to read:
- 3 1157. (a) Neither the proceedings nor the records of organized
- 4 committees of medical, medical-dental, podiatric, registered

1 dietitian, psychological, marriage and family therapist, licensed
2 clinical social worker, professional clinical counselor, pharmacist,
3 *prehospital emergency medical care person or personnel*, or
4 veterinary staffs, ~~or emergency medical services in hospitals~~, or
5 of a peer review body, as defined in Section 805 of the Business
6 and Professions Code, having the responsibility of evaluation and
7 improvement of the quality of care rendered in the hospital, or for
8 that peer review body, or medical or dental review or dental
9 hygienist review or chiropractic review or podiatric review or
10 registered dietitian review or pharmacist review or veterinary
11 review or acupuncturist review or licensed midwife review ~~or~~
12 ~~emergency medical services review~~ or *prehospital emergency*
13 *medical care person or personnel review* committees of local
14 medical, dental, dental hygienist, podiatric, dietetic, pharmacist,
15 veterinary, acupuncture, chiropractic, ~~or emergency medical~~
16 ~~services~~ *prehospital emergency medical care person or personnel*
17 societies, marriage and family therapist, licensed clinical social
18 worker, professional clinical counselor, or psychological review
19 committees of state or local marriage and family therapist, state
20 or local licensed clinical social worker, state or local licensed
21 professional clinical counselor, or state or local psychological
22 associations or societies or licensed midwife associations or
23 societies having the responsibility of evaluation and improvement
24 of the quality of care, shall be subject to discovery.

25 (b) Except as hereinafter provided, a person in attendance at a
26 meeting of any of the committees described in subdivision (a) shall
27 not be required to testify as to what transpired at that meeting.

28 (c) The prohibition relating to discovery or testimony does not
29 apply to the statements made by a person in attendance at a meeting
30 of any of the committees described in subdivision (a) if that person
31 is a party to an action or proceeding the subject matter of which
32 was reviewed at that meeting, to a person requesting hospital staff
33 privileges, or in an action against an insurance carrier alleging bad
34 faith by the carrier in refusing to accept a settlement offer within
35 the policy limits.

36 (d) The prohibitions in this section do not apply to medical,
37 dental, dental hygienist, podiatric, dietetic, psychological, marriage
38 and family therapist, licensed clinical social worker, professional
39 clinical counselor, pharmacist, veterinary, acupuncture, midwifery,
40 chiropractic, ~~or emergency medical services~~ *prehospital emergency*

1 *medical care person or personnel* society committees that exceed
2 10 percent of the membership of the society, nor to any of those
3 committees if a person serves upon the committee when his or her
4 own conduct or practice is being reviewed.

5 (e) The amendments made to this section by Chapter 1081 of
6 the Statutes of 1983, or at the 1985 portion of the 1985–86 Regular
7 Session of the Legislature, at the 1990 portion of the 1989–90
8 Regular Session of the Legislature, at the 2000 portion of the
9 1999–2000 Regular Session of the Legislature, at the 2011 portion
10 of the 2011–12 Regular Session of the Legislature, at the 2015
11 portion of the 2015–16 Regular Session of the Legislature, or at
12 the 2024 portion of the 2023–24 Regular Session of the Legislature,
13 do not exclude the discovery or use of relevant evidence in a
14 criminal action.

15 (f) *For purposes of this section, “prehospital emergency medical*
16 *care person or personnel” has the same meaning as defined in*
17 *paragraph (1) of subdivision (a) of Section 1797.188 of the Health*
18 *and Safety Code.*



ASSEMBLY MEMBER

Freddie Rodriguez

DISTRICT 53

FACT SHEET



Assembly Bill 2225 (Rodriguez) **Exemption from Discovery: Peer Review Committees** *As Introduced on 2/7/2024*

Summary

AB 2225 would make emergency medical services' (EMS) records from a peer review committee exempt from the discovery process in litigation.

Background

EMS professionals deliver healthcare under challenging conditions. This care is provided around the clock, regardless of a patient's ability to pay or legal status. Delivering this care involves the complex coordination of paramedics, emergency medical technicians, physicians, nurses, call takers, dispatchers, and others. Like all healthcare providers, EMS professionals are committed to evaluating and improving the quality of care they deliver.

Multiple professions utilize peer review committees to evaluate the performance of licensed medical professionals, enhance the quality of medical care, and, if necessary, decide on a medical professional's continued practice rights. These medical peer review bodies are required to report disciplinary actions, including denials of staff privileges or employment, to their respective licensing boards.

Recognizing the critical role of an effective peer review process in ensuring patient safety and quality of care, the Legislature has exempted fourteen professions and their medical peer review records from standard discovery and evidence admissibility rules in litigation.

The underlying policy rationale for this exemption and for not compelling peer review participants' testimony is to foster maximum openness in evaluating medical professionals. It is crucial for professionals to discuss all aspects of a patient's care freely, without fearing that

these discussions could contribute to legal actions against that care.

However, EMS professionals currently lack the assurance that their peer review discussions will remain confidential and not be used against them in damage claims. As a result, some EMS agencies in California have had to rely on external entities, such as hospitals, to conduct their quality assurance (QA) activities or oversee them. This reliance could compromise prehospital care oversight quality by distancing it from those most acquainted with its delivery, thereby threatening the core principle of peer review: evaluation by one's peers.

This lack in legal protection poses a risk to public health by undermining the confidence in performing protected peer review QA, which is safeguarded in other healthcare settings.

This Legislation

AB 2225 would exempt records from EMS's peer review committees from the discovery process during litigation.

Support

Fire Districts of California (Co-Sponsor)
California Fire Chiefs Association (Co-Sponsor)

Contact

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Date of Hearing: March 19, 2024

ASSEMBLY COMMITTEE ON JUDICIARY
Ash Kalra, Chair
AB 2225 Rodriguez – As Amended March 14, 2024

PROPOSED CONSENT

SUBJECT: DISCOVERY: PREHOSPITAL EMERGENCY MEDICAL CARE PERSON OR PERSONNEL REVIEW COMMITTEES

KEY ISSUE: SHOULD PEER REVIEW RECORDS OF PREHOSPITAL EMERGENCY MEDICAL CARE PERSON OR PERSONNEL BE EXEMPT FROM DISCOVERY IN THE SAME MANNER THAT PEER REVIEW RECORDS OF OTHER MEDICAL PROFESSIONALS ARE CURRENTLY EXEMPT?

SYNOPSIS

This non-controversial bill would add prehospital emergency medical care person or personnel (EMS professionals) to the list of medical professionals whose peer review records are exempt from discovery under the Evidence Code. The rationale for exempting medical peer review records from discovery requests is to encourage maximum candor in the evaluation of medical professionals. Peer review ensures that professionals candidly discuss all facets of patient care without the fear that such discussions might be used in legal actions against them. This allows peers to learn from possible errors, leading to public benefit through improved patient outcomes and safety. Multiple medical professions utilize the peer review committee system. The Business and Professions Code requires the creation of peer review committees to assess the performance of licensed physicians and improved medical care quality, among other things. The B&P Code outlines a comprehensive and fair process for peer-review that emphasizes transparency, fairness, and due process. The Legislature has recognized the importance of a robust peer review process in safeguarding patient safety and enhancing the quality of care by exempting 14 professions' peer review records from discovery under the Evidence Code. The exemption does not, as a general rule, apply to the statements of any person who is a party to an action pertaining to the subject matter of the peer review. This measure is co-sponsored by California Fire Chiefs Association and the Fire Districts of California. It is supported by the Emergency Medical Services Administrators' Association of California, the California Chapter of the National Association of EMS Physicians, and California Professional Firefighters. There is no known opposition.

SUMMARY: Adds “prehospital emergency medical care person or personnel” to the existing list of medical professionals whose peer review proceedings and records are exempt from civil discovery and required testimony.

EXISTING LAW:

- 1) Exempts from civil discovery requests the proceedings and records of committees of medical, medical-dental, podiatric, registered dietitian, psychological, marriage and family therapist, licensed clinical social worker, professional clinical counselor, pharmacist, or veterinary staffs in hospitals, or of a peer review body having the responsibility of evaluation and improvement of the quality of care rendered in the hospital, or for any medical, dental,

dental hygienist, podiatric, dietetic, pharmacist, veterinary, acupuncture, or chiropractic societies, marriage and family therapist, licensed clinical social worker, professional clinical counselor, or psychological review committees, as specified. Specifies that any person in attendance at a meeting of any of these organized committees shall not be required to testify as to what transpired at that meeting. (Evidence Code Section 1157 (a)-(b).)

- 2) Specifies that the prohibition against discovery and testimony as to peer review records and proceedings does not apply to the statements of a person at a peer review meeting if that person is a party to an action or proceeding, the subject matter of which was reviewed at the meeting, or to a person requesting staff privileges, or in an action against an insurance carrier alleging bad faith by the carrier in refusing to accept a settlement offer within the policy limits. (Evidence Code Section 1157 (c).)
- 3) Specifies that the prohibition against discovery and testimony does not apply to medical, dental, dental hygienist, podiatric, dietetic, psychological, marriage and family therapist, licensed clinical social worker, professional clinical counselor, pharmacist, veterinary, acupuncture, midwifery, or chiropractic society committees that exceed 10 percent of the membership of the society, nor to any of those committees if any person serves upon the committee when his or her own conduct or practice is being reviewed. (Evidence Code Section 1157 (d).)
- 4) Defines “peer review,” for purposes of the healing arts, to mean a process by which a peer review body reviews basic qualifications, staff privileges, employment, medical outcomes, or professional conduct of medical professionals in order to make recommendations for quality improvement or education; determine whether a medical professional may continue to practice, or determine the parameters of that practice; assess and improve the quality of care rendered in a health care facility, clinic, or other setting providing medical services; or to engage in other activities, as specified. Requires the medical chief of staff, executive officer, medical director or other administrator of a peer review body to file a report with the appropriate licensing board, as specified. (Business and Professions Code Section 805.)
- 5) Defines “prehospital emergency medical care person or personnel” as an authorized registered nurse or mobile intensive care nurse, emergency medical technician-I, emergency medical technician-II, emergency medical technician-paramedic, lifeguard, firefighter, or peace officer, as defined, or a physician and surgeon who provides prehospital emergency medical care or rescue services. (Health and Safety Code Section 1797.188.)

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

COMMENTS: Existing law provides for the establishment of peer review committees in order to evaluate the performance of licensed medical professionals, assess and improve the quality of medical care, and, if necessary, determine whether a medical professional may continue to practice. Medical peer review bodies must submit reports to their appropriate licensing boards whenever taking disciplinary action, including the denial of staff privileges or employment to a medical professional.

Because an effective peer review process is essential to patient safety and quality of care, the Legislature has exempted medical peer review records from the usual rules governing the discovery and admissibility of evidence in litigation. Section 1157 of the Evidence Code, in particular, expressly exempts from discovery the peer review proceedings and records of many

different medical professionals: doctors, dentists, podiatrists, dieticians, psychologists, marriage and family therapists, clinical social workers, veterinarians, chiropractors, pharmacists, and acupuncturists, among others. Section 1157 also specifies that any person in attendance at a meeting of any of these organized committees cannot be required to testify as to what transpired at that meeting. The policy rationale for exempting medical peer review records and not compelling testimony from peer review participants is to encourage maximum candor in the evaluation of medical professionals. However, prehospital emergency medical care person or personnel, more commonly known as EMS professionals, are notably absent from the list of medical professionals who currently are covered by Section 1157. The author explains how his personal experience informed his decision to bring this measure adding EMS professionals to the list:

With over 30 years in emergency medical services (EMS), I know firsthand the challenges of providing high-quality emergency response and care. Our commitment extends around the clock, serving every patient regardless of their ability to pay or legal status. This mission requires intricate coordination among paramedics, emergency medical technicians, physicians, nurses, dispatchers, and other healthcare professionals.

Like all healthcare providers, EMS professionals are dedicated to continuously evaluating and enhancing the quality of care we provide. To safeguard public health and ensure the delivery of high-quality care, various medical professionals, including physicians and chiropractors, have established peer review committees that provide feedback and report disciplinary actions.

Recognizing the importance of candid discussions in these committees, the Legislature has exempted the peer review records of fourteen professions from standard discovery and evidence admissibility in litigation. Unfortunately, EMS is not listed among these exemptions provided to other healthcare professionals involved with the evaluation and improvement of the quality of care provided to patients.

Granting EMS peer review committee records the same protection from the discovery process would allow EMS professionals to candidly discuss their performance without fear of legal action being taken against them. AB 2225 would improve public health outcomes and allow EMS professionals to serve patients more effectively wherever and whenever they are needed.

The author further explains how existing law – which does not protect EMS professionals' peer review committee records from discovery – might compromise their quality of care:

EMS professionals currently face the vulnerability of their peer review discussions being exposed and potentially used against them in legal claims for damages. Consequently, some EMS agencies in California have been forced to delegate their Quality Assurance (QA) activities to external entities, such as hospitals, for supervision. This delegation could compromise prehospital care oversight quality by removing it from the direct purview of those most familiar with its nuances, undermining the fundamental tenet of peer review: evaluation by one's peers.

ARGUMENTS IN SUPPORT: The co-sponsors of this measure, the California Fire Chiefs Association (CalChiefs) and the Fire Districts Association of California (FDAC), write in support of the bill:

EMS professionals provide healthcare in a variety of challenging environments, including homes, offices, jails, streets, and remote areas across California. They offer around-the-clock care to everyone. This process requires intricate coordination among paramedics, emergency medical technicians, physicians, nurses, and dispatchers. Committed to excellence, EMS professionals continuously strive to evaluate and enhance the quality of care they deliver.

Multiple professions already utilize the peer review committee system. Acknowledging the vital importance of a robust peer review process in safeguarding patient safety and enhancing the quality of care, the Legislature has shielded fourteen professions by excluding their medical peer review records from standard discovery processes and rules of evidence admissibility in litigation as specified in § 1157 of the Evidence Code. This exemption, along with the policy against compelling testimony from peer review participants, aims to foster maximum openness in evaluating medical professionals. It ensures that professionals can candidly discuss all facets of patient care without the fear that such discussions might be used in legal actions against them. This allows peers to learn from possible errors, leading to public benefit through improved patient outcomes and safety.

EMS professionals currently face the vulnerability of their peer review discussions being exposed and potentially used against them in legal claims for damages. Consequently, some EMS agencies in California have been forced to delegate their Quality Assurance (QA) activities to external entities, such as hospitals, for supervision. This delegation could compromise prehospital care oversight quality by removing it from the direct purview of those most familiar with its nuances, undermining the fundamental tenet of peer review: evaluation by one's peers.

The California Chapter of the National Association of EMS Physicians also supports AB 2225:

AB 2225 would extend, for purposes of civil proceedings only, the exemption from discovery as evidence the proceedings and records of specified emergency medical services (EMS) organized committees and review committees. As already recognized by the legislature for other health care professionals and review committees pursuant to California Evidence Code Section 1157, the ability of EMS professionals/organizations to perform these organized review processes in a manner exempt from civil evidence discovery is necessary to enable the honest and frank discussions that are essential to our ongoing patient safety and quality improvement activities.

REGISTERED SUPPORT / OPPOSITION:

Support

California Fire Chiefs Association (co-sponsor)
California Professional Firefighters
Emergency Medical Services Administrators' Association of California (EMSAAC)
EMS Medical Directors' Association of California (EMDAC)
Fire Districts Association of California (co-sponsor)
National Association of EMS Physicians

Opposition

None on file

Analysis Prepared by: Shiran Zohar / JUD. / (916) 319-2334

ASSEMBLY BILL

No. 2344

Introduced by Assembly Member Petrie-Norris

February 12, 2024

An act to add Section 4772 to the Public Resources Code, relating to fire prevention.

LEGISLATIVE COUNSEL'S DIGEST

AB 2344, as introduced, Petrie-Norris. Fire prevention: grant programs: reporting.

Existing law requires the Wildfire and Forest Resilience Task Force to develop a comprehensive implementation strategy to track and ensure the achievement of the goals and key actions identified in the state's "Wildfire and Forest Resilience Action Plan" issued by the task force in January 2021. Existing law requires the task force to submit, as part of the implementation strategy, a report to the appropriate policy and budget committees of the Legislature on progress made in achieving the goals and key actions identified in the state's action plan, on state expenditures made to implement these key actions, and on additional resources and policy changes needed to achieve these goals and key actions, as provided.

This bill would require the task force, on or before July 1, 2025, and annually thereafter, to compile and post on its internet website specified information regarding identified state and federal grant programs relating to fire prevention and resilience, as provided.

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. The Legislature finds and declares all of the
2 following:

3 (a) Wildfires have been increasing in frequency and severity in
4 California, resulting in loss of life and damage to public health,
5 property, infrastructure, and ecosystems.

6 (b) More than 2,000,000 California households, approximately
7 one in four residential structures in California, are located within
8 or in wildfire movement proximity of “high” or “very high” fire
9 hazard severity zones identified on maps drawn by the Department
10 of Forestry and Fire Protection.

11 (c) In response to longer and more intense wildfire seasons, the
12 State of California has developed a comprehensive approach to
13 wildfire-related disaster preparedness, mitigation, and resilience.
14 The California Wildfire and Forest Resilience Action Plan lays
15 out a detailed framework and associated implementation strategy
16 and expenditure plan for establishing healthy and resilient forests
17 and communities that can withstand and adapt to wildfire, drought,
18 and climate change.

19 (d) The state has invested nearly \$3,000,000,000 since the 2019
20 Budget Act into programs and projects to improve forest health
21 and resilience, create fuel breaks, harden homes and communities,
22 and build resilient lifeline infrastructure to withstand wildfire
23 disasters when they do occur.

24 (e) The State of California administers multiple state and federal
25 wildfire and forest resilience grant programs with the goal of
26 preventing catastrophic wildfire.

27 (f) Reducing the risk of catastrophic wildfire requires immense
28 coordination between all levels of government, communities, and
29 stakeholders as well as information and data sharing to maximize
30 and leverage the whole of the multipronged wildfire and forest
31 resilience response.

32 SEC. 2. Section 4772 is added to the Public Resources Code,
33 immediately following Section 4771, to read:

34 4772. (a) For purposes of this section, “program” means any
35 of the following programs:

36 (1) The forestry assistance program established pursuant to
37 Section 4792.

1 (2) The comprehensive wildfire mitigation program established
2 pursuant to Section 8654.4 of the Government Code.

3 (3) The local assistance grant program for fire prevention and
4 home hardening education activities established pursuant to Section
5 4124.5.

6 (4) The department's grant programs not otherwise identified
7 in paragraphs (1) to (3), inclusive, including, but not limited to,
8 those grant programs related to wildfire prevention, forest health,
9 forest legacy, urban and community forestry, forest health research,
10 forest improvement, wildfire resilience, workforce and business
11 development, and volunteer fire capacity.

12 (5) The federal Building Resilient Infrastructure and
13 Communities program.

14 (6) The federal Hazard Mitigation Grant Program.

15 (7) The federal Fire Management Assistance Grant Program.

16 (8) The federal Community Wildfire Defense Grant program.

17 (9) Any other relevant publicly funded grant program
18 administered in California to benefit forest health and resilience,
19 harden homes and communities, or prevent and mitigate wildfires,
20 if information on the program is readily available.

21 (b) On or before July 1, 2025, and every July 1 thereafter, the
22 task force shall compile and post on its internet website all of the
23 following information for each program, for each fiscal year in
24 which the Legislature appropriated program funding or program
25 projects occurred in the state, as applicable:

26 (1) The amount of funding allocated from the program.

27 (2) The list of recipients and subrecipients that received an
28 allocation from the program, including the location of the project.

29 (3) The amount of funding that has been encumbered by each
30 recipient.

31 (4) A brief description of the project, including the location,
32 current status, and the proposed schedule for the project's
33 completion.

34 (5) A brief description of the anticipated benefits of the project,
35 which may include benefits for fire prevention and mitigation,
36 habitat, forest resiliency, climate resiliency, public safety, or
37 protection of important natural resources, including water quality
38 and water supply.



Assembly Bill 2344

Increasing Transparency and Accountability in California's Wildfire and Forest Resilience Investments

SUMMARY

AB 2344 will provide state policymakers, local communities, and other essential stakeholders with comprehensive data and information on state and federal investments into wildfire and forest resilience programs. With more transparency and accountability, stakeholders, communities, and policy-makers can better ensure that taxpayer dollars are used effectively toward reducing the main drivers of catastrophic wildfires and improve the resilience of increasingly vulnerable communities. As the state faces a multibillion-dollar budget deficit, ensuring limited resources are maximized is even more critical.

BACKGROUND

California has invested significant time and resources developing and implementing a comprehensive approach to wildfire related disaster preparedness, mitigation, and resilience. The California Wildfire and Forest Resilience Action Plan (Action Plan) lays out a detailed framework and associated implementation strategy and expenditure plan for establishing healthy and resilient forests and communities that can withstand and adapt to wildfire, drought, and climate change.

Implementation of the Action Plan requires coordination amongst state agencies and departments, the State Legislature, hundreds of stakeholders, and communities across California. The California Wildfire and Forest Resilience Task Force (Task Force) has oversight and coordination responsibility to ensure the Action Plan is implemented.

Implementation of the Action Plan also requires significant fiscal resources to undertake projects to improve forest health and resilience, create fuel

breaks, harden homes and communities, and build resilient lifeline infrastructure to withstand wildfire disasters when they do occur. Since FY 2020-21, the State has appropriated approximately \$2.8 billion for programs to support the State's wildfire and forest resilience goals and objectives.

NEED FOR THE BILL

While wildfire and forest resilience projects have been and continue to be awarded to communities throughout the state, the data is reported piecemeal across various state agencies, departments, boards, and offices. Further, the reporting is not adequate to understand that status of projects and programs and how the investments are making a collective difference in communities. Understanding the status of current programs is vital information in order to target and maximize additional investments in fire prone areas.

SOLUTION

Assembly Bill 2344 requires the Wildfire and Forest Resilience Task Force to make available on its existing internet website basic data and information already collected by state agencies to the public on wildfire and forest resilience programs, projects, and expenditures.

SUPPORT

BuildStrong California (Sponsor)

CONTACT

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Utilities and Energy Committee
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Date of Hearing: March 19, 2024

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Isaac G. Bryan, Chair

AB 2344 (Petrie-Norris) – As Introduced February 12, 2024

SUBJECT: Fire prevention: grant programs: reporting.

SUMMARY: Requires the Wildfire and Forest Resilience Task Force (Task Force), on or before July 1, 2025, and annually thereafter, to compile and post on its internet website specified information regarding identified state and federal grant programs relating to fire prevention and resilience, as provided.

EXISTING LAW:

- 1) Requires the Task Force to develop a comprehensive implementation strategy to track and ensure the achievement of the goals and key actions identified in the state’s “Wildfire and Forest Resilience Action Plan” issued by the Task Force in January 2021. (Public Resources Code (PRC) 4771)
- 2) Requires the Task Force to submit, as part of the implementation strategy, a report to the appropriate policy and budget committees of the Legislature on progress made in achieving the goals and key actions identified in the state’s action plan, on state expenditures made to implement these key actions, and on additional resources and policy changes needed to achieve these goals and key action. (PRC 4771 (e)(1))
- 3) Authorizes the Department of Forestry and Fire Protection (CAL FIRE) to administer the forestry assistance program to provide loans to encourage forest resource improvements and otherwise facilitate good forest land management through a program of financial, technical, and educational assistance, as well as through applied research. (PRC 4792)
- 4) Requires the Governor’s Office of Emergency Services (CalOES) to enter into a joint powers agreement with CAL FIRE to develop and administer a comprehensive wildfire mitigation program to encourage cost-effective structure hardening and retrofitting that creates fire-resistant homes, businesses, and public buildings, and facilitate vegetation management, the creation and maintenance of defensible space, and other fuel modification activities that provide neighborhood or communitywide benefits against wildfire. (Government Code 8654.4)
- 5) Requires CAL FIRE to establish a local assistance grant program for fire prevention and home hardening education activities in California. (PRC 4124.5)
- 6) Establishes the Federal Emergency Management Agency (FEMA) pursuant to President Carter’s Executive Order 12127, effective April 1, 1979, to provide clear direction for emergency management and disaster response and recovery.
- 7) Establishes the federal Building Resilient Infrastructure and Communities program to support states, local communities, tribes and territories as they undertake hazard mitigation projects, reducing the risks they face from disasters and natural hazards. (42 United States Code (U.S.C.) 203)

- 8) Establishes the federal Hazard Mitigation Grant Program to provide grants to communities during federal disasters. (42 U.S.C. 5133)
- 9) Establishes the federal Fire Management Assistance Grant Program to provide grant assistance to assist in reimbursement for equipment, supplies, and personnel to any state, tribal, or local government for the mitigation, management, and control of any declared fire on public or private forest land or grassland that threatens such destruction as would constitute a major disaster. (42 U.S.C. 5187)

THIS BILL:

- 1) Defines “Program” as any of the following programs:
 - a) The Forestry Assistance Program;
 - b) The Comprehensive Wildfire Mitigation Program;
 - c) The local assistance grant program for fire prevention and home hardening education activities;
 - d) CAL FIRE’s grant programs related to wildfire prevention, forest health, forest legacy, urban and community forestry, forest health research, forest improvement, wildfire resilience, workforce and business development, and volunteer fire capacity;
 - e) The federal Building Resilient Infrastructure and Communities program;
 - f) The federal Hazard Mitigation Grant Program;
 - g) The federal Fire Management Assistance Grant Program;
 - h) The federal Community Wildfire Defense Grant program; and,
 - i) Any other relevant publicly funded grant program administered in California to benefit forest health and resilience, harden homes and communities, or prevent and mitigate wildfires, if information on the program is readily available.
- 2) Requires, on or before July 1, 2025, and every July 1 thereafter, the Task Force to compile and post on its internet website all of the following information for each program, for each fiscal year in which the Legislature appropriated program funding or program projects occurred in the state, as applicable:
 - a) The amount of funding allocated from the program;
 - b) The list of recipients and subrecipients that received an allocation from the program, including the location of the project;
 - c) The amount of funding that has been encumbered by each recipient;
 - d) A brief description of the project, including the location, current status, and the proposed schedule for the project’s completion; and,

- e) A brief description of the anticipated benefits of the project, which may include benefits for fire prevention and mitigation, habitat, forest resiliency, climate resiliency, public safety, or protection of important natural resources, including water quality and water supply.

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's statement:**

Implementation of California's Wildfire and Forest Resilience Action Plan requires significant fiscal resources to undertake projects to improve forest health and resilience, create fuel breaks, harden homes and communities, and build resilient lifeline infrastructure to withstand wildfire disasters when they occur. Since FY 2020-21, the State has appropriated approximately \$2.8 billion for programs to support the State's wildfire and forest resilience goals and objectives. While wildfire and forest resilience projects have been and continue to be awarded to communities throughout the state, the data is reported piecemeal across various state agencies, departments, boards, and offices. Further, the reporting is not adequate to understand the status of projects and programs and how the investments are making a collective difference in communities. Understanding the status of current programs is vital information in order to target and maximize additional investments in fire-prone areas.

- 2) **Wildfire prevention.** Wildfires have been growing in size, duration, and destructivity over the past 20 years. Growing wildfire risk is due to accumulating fuels, a warming climate, and expanding development in the wildland-urban interface. The 2020 fire season broke numerous records. Five of California's six largest fires in modern history burned at the same time, destroying thousands of buildings, forcing hundreds of thousands of people to flee their homes, and exposing millions of residents to dangerously unhealthy air. Managing forest health and efforts to restrict fire spread is vital to wildfire prevention.

The 2021 and 2022 Budget Acts committed \$2.8 billion over four years to continue strengthening forest and wildfire resilience statewide. The Governor's proposed 2024/2025 budget maintains \$2.7 billion of these investments over five years. This bill finds and declares that the state has invested nearly \$3 billion since the 2019 Budget Act into programs and projects to improve forest health and resilience, create fuel breaks, harden homes and communities, and build resilient lifeline infrastructure to withstand wildfire disasters when they do occur.

- 3) **California Wildfire and Forest Resilience Task Force.** The Task Force is a collaborative effort to align federal, state, local, public and private, and tribal entities together to support projects tailored for regional fire prevention needs.

The Task Force's *January 2021 California Wildfire and Forest Resilience Action Plan* (Action Plan) is the initial five-year plan for implementing the Agreement for Shared Stewardship of California's Forest and Rangelands (Shared Stewardship Agreement) with the United States Forest Service (USFS), coordinating the state's forestry efforts with other federal, local, tribal, regional, and private organizations. The Action Plan details goals to

treat 500,000 acres annually by 2025 through the Shared Stewardship Agreement; to underscore building resilience in threatened communities through adaptive strategies, such as hardening homes, buildings, and infrastructure, and increasing defensible space and fuel breaks; forest thinning and prescribed fire; and, move innovation in monitoring and research.

The Action Plan aligns with the investments in the state budget to combat wildfire risk and improve the health of forested landscapes. In 2021, the state dramatically scaled wildfire resilience investments from \$200 million to \$1.5 billion, forcing greater efficiency in putting resources into projects. That funding launched more than 552 wildfire resilience projects in less than a year. By speeding up and increasing the scale of wildfire resilience activities from home-hardening to fuel breaks to reforestation, these investments are giving California a fighting chance to match the scale and frequency of the wildfire crisis. Information on the funding by project is detailed on the Natural Resources Agency's Wildfire Resilience Program webpage. Further, the Task Force's expenditure plan¹ identifies the breakdown of the funding across the various wildfire prevention programs, including those included in this bill.

- 4) **Fire prevention financing programs.** This bill requires the Task Force to compile and post information on legislative appropriations for the following programs. It is important to note that these programs are not an exhaustive list of programs appropriating taxpayer dollars for forest health and wildfire prevention in California.
- Forestry assistance program. Under this program, CAL FIRE works with private landowners, particularly smaller nonindustrial landowners, to upgrade the management of their lands, and improve both the productivity of the land and the degree of protection and enhancement of the forest resource system as a whole.
 - Comprehensive wildfire mitigation program. Enacted pursuant to AB 38 (Wood), Chapter 391, Statutes of 2019, this program requires the Natural Resources Agency, in consultation with the Office of the State Fire Marshal and the Task Force, to review the regional capacity of each county that contains a very high fire hazard severity zone to improve forest health, fire resilience, and safety. Cal OES can enter into a joint powers agreement with CAL FIRE to administer a comprehensive wildfire mitigation and assistance program to encourage cost-effective structure hardening and facilitate vegetation management.
 - Wildfire Prevention Grants. CAL FIRE provides grants for local projects in and near fire threatened communities that focus on increasing the protection of people, structures, and communities. Qualified activities include hazardous fuels reduction, wildfire prevention planning and wildfire prevention education with an emphasis on improving public health and safety while reducing greenhouse gas emissions. CAL FIRE considers the wildfire hazards and risk of an area, the geographic balance of projects, and whether the project is complementary to other wildfire prevention or forest health activities when awarding grants.
 - Local assistance grant program. This program is fire prevention and home hardening education activities. Groups eligible for grants include local agencies, resource conservation districts, fire safe councils, the California Conservation Corps, certified

community conservation corps, University of California Cooperative Extension, California Volunteers, Native American tribes, and qualified nonprofit organizations.

- Federal Building Resilient Infrastructure and Communities (BRIC). This grant program provides funds annually for hazard mitigation planning and projects to reduce risk of damage before a disaster. Funding is available in federal funding for eligible FEMA BRIC projects and project scoping activities.
- Federal Hazard Mitigation Grant Program (HGMP). FEMA provides hazard mitigation funding assistance for eligible mitigation measures that reduce disaster losses. "Hazard mitigation" is any sustainable action that reduces or eliminates long-term risk to people and property from future disasters. The funds are administered by Cal OES.
- Federal Fire Management Assistance Grant Program (FMAG). Administered by FEMA, grants are available to states, local, and tribal governments, for the mitigation, management, and control of fires on publicly or privately owned forests or grasslands, which threaten such destruction as would constitute a major disaster.

5) **Keeping tabs on how the money is spent.** The Pew Charitable Trusts November 2022 report, *Wildfires: Burning Through State Budgets*, made the following recommendations for policymakers who are tasked with managing the growing risks and spending associated with wildfire:

- States should evaluate and strengthen current budgeting practices to account for growing risk. By comparing actual spending versus expected spending, assessing the threat of future fires, and implementing other tools, states can more accurately understand how much to budget for wildfire management, including mitigation.
- States should explore opportunities to better track and share data on wildfire spending. Wildfire spending data should be made more accessible, transparent, and comprehensive across all levels of government, which could improve intergovernmental coordination and provide policymakers with evidence to more strategically allocate resources.

The author argues that understanding the status of current programs is vital information to target existing and future investments. Data is also needed to understand the impacts previous investments achieved and to make program modifications in improved outcomes, to the extent possible.

Grant reporting is currently required for all of the aforementioned grant programs, but that information is siloed by program and by agency, and there is not a place where all spending on wildfire prevention activities can be tracked by project type or geographic implementation.

6) **Tracking state funding.** With a \$38 billion (and growing) budget shortfall, and multi-billion dollar deficits in the foreseeable future, tracking taxpayer dollars to ensure they are spent as efficiently and effectively as possible is both pragmatic and responsible. In addition, with the impacts of climate change exacerbating drought and increasing unpredictability in weather patterns, tracking the efficacy of investments in forest health and fire risk prevention will be an ongoing priority.

In 2017, the Legislature approved SB 1 (Beall), Chapter 5, Statutes of 2017, also known as the Road Repair and Accountability Act of 2017, which provided funding for local jurisdictions to fix and maintain roads and bridges through transportation related taxes and fees. SB 1 requires the California Transportation Commission (CTC) to track the performance of all SB 1 funded programs under its purview and report to the public how well recipients of SB 1 funds are delivering on promises made to the taxpayers. As a result, CTC has tracked \$17.36 billion in gas tax expenditures across more than 9,000 transportation projects. CTC's website tracking the expenditures includes details on the project name, implementing agency, project description, cost, fund type, project status, federal and state districts, geography, and date when the project info was updated.

The CTC's ability to detail information for more than \$17 billion provides a model for the Task Force to map the state's \$2.7+ billion investments in wildfire prevention.

- 7) **This bill.** AB 2344 requires the Task Force to create and maintain a comprehensive data portal, including a searchable data base of projects by city, county, and legislative district, on wildfire and forest resilience programs, projects, and expenditures.

The author's intent is to help the state fully understand how California's investments are influencing the state's overall wildfire risk, where resources have been directed, what the outcomes have been, and where resources need to be directed in future budgets and programs. The sheer magnitude of investments needed to increase the pace and scale of wildfire and forest resilience activities requires an accurate understanding of where investments have been made and where needs remain.

In May 2022, the Task Force announced the Forest & Wildland Stewardship Interagency Tracking System on its website to report on the status of wildfire and forest resilience projects. The goal is to provide transparency and accountability for state and federal land management efforts toward the acreage targets stated in the Agreement for Shared Stewardship and other documents, including strategy documents created by the Task Force. Data will be collected on the project, the treatment, and the activity. The expected product is a spatial database that can provide both summary information on statewide activity and geographic information system (GIS) maps capable of showing local implementation, for use by policymakers, land managers, scientists, and the public.

That effort would grease the skids to implement this bill, should it be enacted, and build a system for tracking wildfire prevention investments much like the one for SB 1 funds.

- 8) **Related legislation.** AB 788 (Petrie-Norris, 2023) would have required the Task Force to make available on its existing internet website basic data and information already collected by state agencies to the public on wildfire and forest resilience programs, projects, and expenditures. This bill was held in the Senate Appropriations Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

None on file

Analysis Prepared by: Paige Brokaw / NAT. RES. /

ⁱ [Expenditure Plan – California Wildfire & Forest Resilience \(wildfiretaskforce.org\)](http://wildfiretaskforce.org)

ASSEMBLY BILL

No. 2348

Introduced by Assembly Member Rodriguez

February 12, 2024

An act to amend Sections 1797.103, 1797.120, 1797.225, and 1797.254 of, and to add Sections 1797.235 and 1797.255 to, the Health and Safety Code, relating to emergency medical services.

LEGISLATIVE COUNSEL'S DIGEST

AB 2348, as introduced, Rodriguez. Emergency medical services.

Existing law, the Emergency Medical Services System and the Prehospital Emergency Medical Care Personnel Act, governs local emergency medical services (EMS) systems. The act establishes the Emergency Medical Services Authority (authority), which is responsible for the coordination and integration of all emergency medical services. Existing law authorizes each county to develop an emergency medical services program and requires a county that does so to designate a local EMS agency (LEMSA). Existing law makes a violation of the act or regulations adopted pursuant to the act punishable as a misdemeanor.

Existing law requires the authority to develop planning and implementation guidelines for emergency medical services systems that address specified components, including the assessment of hospital and critical care centers and data collection and evaluation.

This bill would require the authority to develop planning and implementation guidelines for response times. This bill would require the authority to develop a statewide standard methodology for calculation and reporting by a LEMSA of response time. The bill would require the authority to ensure the guidelines include a list of specified standardized terminology for a LEMSA to use when granting

exemptions or when modifying original response time data for public and contractual reporting of 911 response time. The bill would require a LEMSA to report contracted provider response times to the authority in a data dispatch form, as specified. The bill would require a noncontracted ambulance provider to report response times to the LEMSA that has jurisdiction over the provider. The bill would require the LEMSA to post contracted and noncontracted provider response times monthly on the LEMSA’s internet website in specified formats.

Existing law authorizes a LEMSA to adopt policies and procedures for calculating and reporting ambulance patient offload times.

This bill would make adoption of those policies and procedures mandatory.

Existing law requires a LEMSA to annually submit an EMS plan for the EMS area to the authority according to systems, standards, and guidelines established by the authority.

This bill would require a LEMSA to include in an EMS plan the LEMSA’s annual budget, a list of administrative exemptions and a list of administrative modifications relating to response time that were approved by the LEMSA, and any exemptions granted by the LEMSA in the previous calendar year. The bill would require a LEMSA to make its plan accessible on its internet website, and would require the authority to make each EMS plan submitted to the authority accessible on the authority’s internet website, as specified. The bill would require a LEMSA to use the above-described standardized terminology developed by the authority to the extent possible.

Because the bill would create new requirements within the act, thereby expanding the scope of an existing crime, the bill would impose a state-mandated local program.

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 no reimbursement is required by this act for a specified reason.

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 1797.103 of the Health and Safety Code
- 2 is amended to read:

1 1797.103. The authority shall develop planning and
2 implementation guidelines for emergency medical services systems
3 which address the following components:

- 4 (a) Manpower and training.
- 5 (b) Communications.
- 6 (c) Transportation.
- 7 (d) Assessment of hospitals and critical care centers.
- 8 (e) System organization and management.
- 9 (f) Data collection and evaluation.
- 10 (g) Public information and education.
- 11 (h) Disaster response.
- 12 (i) *Response times.*

13 SEC. 2. Section 1797.120 of the Health and Safety Code is
14 amended to read:

15 1797.120. (a) The authority shall develop, using input from
16 stakeholders, including, but not limited to, hospitals, local EMS
17 agencies, and public and private EMS providers, and, after approval
18 by the commission pursuant to Section 1799.50, adopt a statewide
19 standard methodology for the calculation and reporting by a local
20 EMS agency of *contract ambulance response time and ambulance*
21 *patient offload time.*

22 (b) *The standard statewide methodology developed and adopted*
23 *by the authority under this section shall use a fractal reporting*
24 *format report that includes, at a minimum, a 90th percentile*
25 *benchmark.*

26 ~~(b)~~

27 (c) For the purposes of this section, “ambulance patient offload
28 time” ~~is defined as~~ *means* the interval between the arrival of an
29 ambulance patient at an emergency department and the time that
30 the patient is transferred to an emergency department gurney, bed,
31 chair, or other acceptable location and the emergency department
32 assumes responsibility for care of the patient.

33 (d) *For purposes of this division, “response time” means the*
34 *interval between the point in time when the address or location is*
35 *received by the responding EMS provider’s dispatch center and*
36 *the point in time that the transporting ambulance unit arrives at*
37 *the provided address or location.*

38 (e) *The authority shall ensure the EMS system planning and*
39 *implementation guidelines for response times comply with all of*
40 *the following requirements:*

1 (1) The guidelines shall include a list of standardized
2 terminology for local emergency medical services agencies to use
3 when granting exemptions or when modifying original response
4 time data for public and contractual reporting of 911 response
5 time. The list of standardized terminology shall include the
6 following terms and definitions:

7 (A) “Cancelled calls” means an EMS response in which the
8 responding unit is notified and begins the response, but the
9 response is terminated prior to responding to the EMS unit arrival
10 on scene using predefined objective criteria.

11 (B) “Do not count” means an EMS response generated within
12 the computer-aided dispatch (CAD) incident data that, upon
13 review, does not satisfy the criteria for an EMS response that is
14 subject to compliance monitoring using predefined objective
15 criteria.

16 (C) “Exemption” means an EMS response where the incident
17 data is administratively excluded from the CAD data used to
18 calculate response interval compliance using predefined objective
19 criteria.

20 (D) “Time correction” means an EMS response where defined
21 points in time in the CAD incident data are administratively
22 modified from the original CAD incident data using predefined
23 objective criteria.

24 (2) The list of standardized terminology described in paragraph
25 (1) shall include common reasons for granting exemptions from
26 911 response times in the various emergency medical services
27 areas of the state.

28 SEC. 3. Section 1797.225 of the Health and Safety Code is
29 amended to read:

30 1797.225. (a) A local EMS agency ~~may~~ shall adopt policies
31 and procedures for calculating and reporting ambulance patient
32 offload time, as defined in subdivision ~~(b)~~ (c) of Section 1797.120.

33 (b) A local EMS agency that adopts policies and procedures for
34 calculating and reporting ambulance patient offload time pursuant
35 to subdivision (a) shall do all of the following:

36 (1) Use the statewide standard methodology for calculating and
37 reporting ambulance patient offload time developed by the
38 authority pursuant to Section 1797.120.

1 (2) Establish criteria for the reporting of, and quality assurance
2 followup for, a nonstandard patient offload time, as defined in
3 subdivision (c).

4 (c) (1) For the purposes of this section, a “nonstandard patient
5 offload time” means that the ambulance patient offload time for a
6 patient exceeds a period of time designated in the criteria
7 established by the local EMS agency pursuant to paragraph (2) of
8 subdivision (b).

9 (2) “Nonstandard patient offload time” does not include
10 instances ~~in which~~ *when* the ambulance patient offload time
11 exceeds the period set by the local EMS agency due to acts of God,
12 natural disasters, or manmade disasters.

13 SEC. 4. Section 1797.235 is added to the Health and Safety
14 Code, to read:

15 1797.235. (a) A local EMS agency shall adopt policies and
16 procedures for calculating and reporting of contract ambulance
17 response times, as defined in subdivision (d) of Section 1797.120.

18 (b) (1) A local EMS agency shall use the statewide standard
19 methodology for calculating and reporting response interval
20 performance developed by the authority pursuant to subdivision
21 (a) of Section 1797.120.

22 (2) When establishing response time compliance requirements,
23 the local EMS agency shall weigh the risk to the safety of the
24 responding crew and public against the severity of the medical
25 emergency when determining what level of response and time
26 allotment to require from a contracted provider of emergency
27 ambulance transport services.

28 (c) Local EMS agency response times reporting shall include
29 data from all contracted providers operating under Section
30 1797.224 where the annual transport volume of all emergency
31 ambulance transports within an exclusive operating area exceeds
32 10,000 transports per calendar year within their jurisdiction.

33 (d) A local EMS agency shall report contracted provider
34 response times to the authority in a data dispatch form that is
35 consistent with the California Emergency Medical Services
36 Information System (CEMSIS) and the National Emergency
37 Medical Services Information System (NEMSIS) standards, as
38 specified by the authority, including with the following:

39 (1) The point in time that the public safety agency dispatch
40 center receives the EMS call.

1 (2) The point in time that the EMS provider’s dispatch center
2 that is responsible for directly dispatching the ambulance unit
3 receives EMS caller data from a public agency dispatch center.

4 (3) The point in time that the responding ambulance unit is
5 notified of EMS caller data by dispatch.

6 (4) The point in time that the ambulance unit is en route.

7 (5) The point in time that the ambulance unit arrives on scene.

8 (e) (1) A local EMS agency shall make response times publicly
9 available monthly on the local EMS agency internet website both
10 in raw form and on a 90th percentile fractal compliance scale. For
11 purposes of this subdivision, “raw form” means the response time
12 prior to administrative exemptions or modification.

13 (2) The local EMS agency shall include on the local EMS
14 agency’s internet website the response times provided to the local
15 EMS agency by noncontracted ambulance providers pursuant to
16 subdivision (g).

17 (f) For purposes of this section, “EMS caller data” means the
18 address or location of the emergency.

19 (g) A noncontracted ambulance provider shall report response
20 times to the local EMS agency that has jurisdiction over the
21 provider in the manner described in subdivision (d).

22 (h) This section does not apply to calls not originating in the
23 911 system.

24 (i) This section does not prohibit the local EMS agency from
25 reporting response interval compliance from contracted providers
26 that do not satisfy the requirements described in subdivision (c).

27 (j) This section does not prohibit local EMS agencies from
28 granting exemptions that do not use the terminology established
29 by the authority when the reason for granting the exemption does
30 not meet the definition of a term established by the authority.

31 (k) This section does not prohibit a local EMS agency, when
32 utilizing standardized terminology to grant exemptions from 911
33 response times, from including additional information or rationales
34 when granting exemptions.

35 SEC. 5. Section 1797.254 of the Health and Safety Code is
36 amended to read:

37 1797.254. (a) Local EMS agencies shall annually submit an
38 emergency medical services plan *that includes the local EMS*
39 *agency’s annual budget* for the EMS area to the authority,

1 according to EMS Systems, Standards, and Guidelines established
2 by the authority.

3 *(b) The authority shall approve or request changes to the*
4 *proposed plans within 90 calendar days of receipt.*

5 *(c) (1) A local EMS agency shall make the plan accessible on*
6 *the agency's internet website within 30 calendar days of approval*
7 *by the authority.*

8 *(2) The authority shall make each local EMS agency plan*
9 *submitted to the authority accessible on the authority's internet*
10 *website within 30 calendar days of approval by the authority.*

11 SEC. 6. Section 1797.255 is added to the Health and Safety
12 Code, to read:

13 1797.255. (a) Each local EMS agency shall include in the
14 annual EMS plan required by Section 1797.254 all of the following:

15 (1) The list of administrative exemptions approved by the local
16 EMS agency, if any, relating to 911 response time performance
17 standards.

18 (2) The list of administrative modifications relating to reported
19 response time performance standards approved by the local EMS
20 agency, if any.

21 (3) Any exemptions from meeting 911 response times granted
22 by the local EMS agency in the previous calendar year.

23 (b) For purposes of subdivision (a), when standardized
24 terminology for exemptions is established by the authority pursuant
25 to Section 1797.120, local EMS agencies shall utilize those
26 standardized terms to the extent possible.

27 (c) This section does not prohibit a local EMS agency from
28 granting exemptions that do not use the terminology established
29 by the authority when the reason for granting the exemption does
30 not meet the definition of a term established by the authority.

31 (d) This section does not prohibit a local EMS agency, when
32 utilizing standardized terminology to grant exemptions from 911
33 response times, from including additional information or rationales
34 when grants.

35 SEC. 7. No reimbursement is required by this act pursuant to
36 Section 6 of Article XIII B of the California Constitution because
37 the only costs that may be incurred by a local agency or school
38 district will be incurred because this act creates a new crime or
39 infraction, eliminates a crime or infraction, or changes the penalty
40 for a crime or infraction, within the meaning of Section 17556 of

- 1 the Government Code, or changes the definition of a crime within
- 2 the meaning of Section 6 of Article XIII B of the California
- 3 Constitution.

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ASSEMBLY MEMBER
Freddie Rodriguez
DISTRICT 53

FACT SHEET



Assembly Bill 2348 (Rodriguez)

LEMSA Transparency

Introduced February 12, 2024

Summary

AB 2348 would require the California Emergency Medical Services Authority (EMSA) and Local Emergency Medical Services Agencies (LEMSAs) to engage in a number of planning and reporting actions to increase transparency and improve emergency response.

Background

LEMSAs are responsible for planning, coordinating, and improving local emergency and medical response systems. LEMSAs primarily work to organize prehospital services. Their plans provide policies for system organization and management, staffing and training, communication, response and transportation for emergency services, facilities and critical care, data collection and system evaluation, public information and education, disaster medical response, and more.

By requiring LEMSAs and EMSA to post approved plans on their websites, we can increase transparency for policymakers, stakeholders, and residents who want to see how emergency management officials are planning for response and care. Additionally, requiring ambulance providers to report publically and to EMSA their 911 response times, and having LEMSAs make public their budgets and exemptions for not meeting 911 response time standards, we can see what may be hindering emergency response, either in planning, response, or simply unpredictable circumstances.

This transparency will help EMSA better guide LEMSAs in their annual plans and requiring EMSA to respond to annual plans within 90 days ensures LEMSAs operate on up-to-date plans.

This Legislation

AB 2348 would

- Add response times to the guidelines that EMSA must develop for LEMSAs to plan and implement.
- Require LEMSAs to consider the safety of responding EMS professionals when setting response time standards.
- Require EMSA to develop a standardize list of exemptions given to providers for failing to meet 911 response times.
- Require all ambulance providers to report their raw 911 response times both publically and to EMSA.
- Require LEMSAs to include in their annual plans their budget and a list of 911 response time exemptions.
- Require EMSA to respond to annual plans submitted by LEMSAs within 90 days.
- Require both EMSA and LEMSAs to post approved annual plans on their websites within 30 days of approval.

Support

Contact Information

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ASSEMBLY BILL

No. 2384

Introduced by Assembly Member Wilson

February 12, 2024

An act to add Section 116064.3 to the Health and Safety Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

AB 2384, as introduced, Wilson. Public swimming pools: emergency telephones.

Existing law requires the State Department of Public Health to adopt and enforce regulations relating to public swimming pools. Existing law provides various building and safety standards for public swimming pools, as defined. Existing law requires that every person or entity operating or maintaining a public swimming pool do so in a sanitary, healthful, and safe manner. Existing law requires county health officers to enforce department regulations and authorizes a county health officer or any department inspector to enter the premises of a public swimming pool and investigate for violations, as specified. A violation of these provisions is a misdemeanor.

This bill would require a person or entity that owns or maintains a public swimming pool, as defined, to ensure that there is an operating telephone on or adjacent to the pool deck, available for emergency use, at all times. By expanding the definition of a crime, this bill would impose a state-mandated local program.

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.

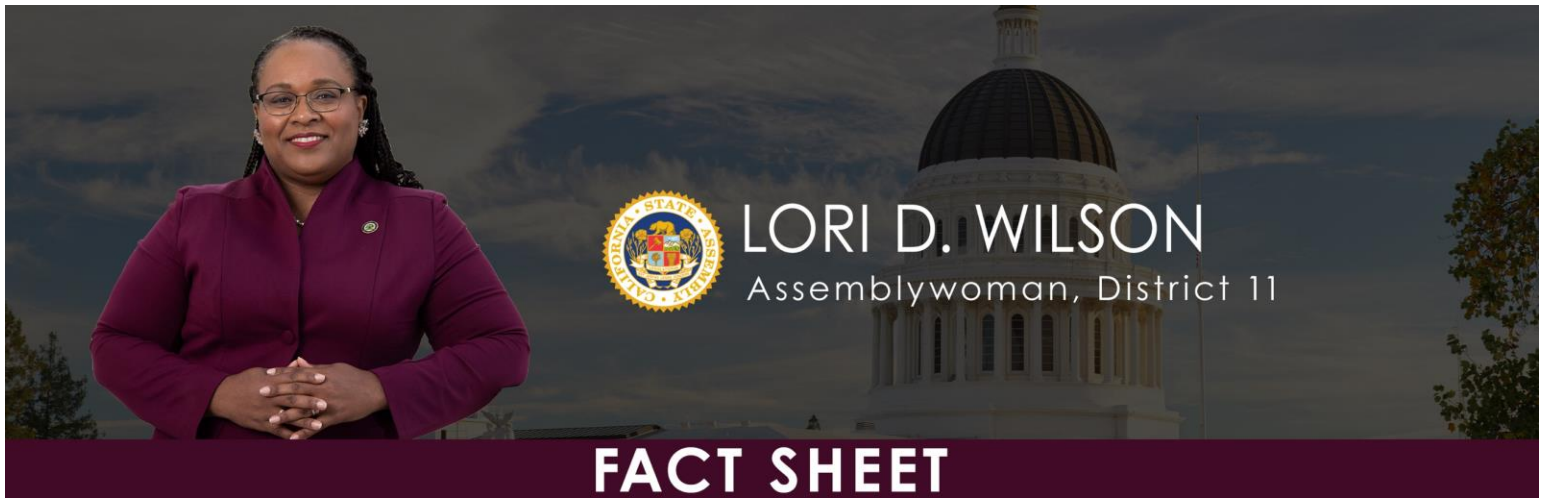
This bill would provide that no reimbursement is required by this act for a specified reason.

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 116064.3 is added to the Health and
- 2 Safety Code, to read:
- 3 116064.3. A person or entity that owns or maintains a public
- 4 swimming pool, as defined in Section 116049 or 116049.1, shall
- 5 ensure that there is an operating telephone on or adjacent to the
- 6 pool deck, available for emergency use, at all times.
- 7 SEC. 2. No reimbursement is required by this act pursuant to
- 8 Section 6 of Article XIII B of the California Constitution because
- 9 the only costs that may be incurred by a local agency or school
- 10 district will be incurred because this act creates a new crime or
- 11 infraction, eliminates a crime or infraction, or changes the penalty
- 12 for a crime or infraction, within the meaning of Section 17556 of
- 13 the Government Code, or changes the definition of a crime within
- 14 the meaning of Section 6 of Article XIII B of the California
- 15 Constitution.

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FACT SHEET

AB 2384: Emergency Telephones at Pools

Summary

AB 2384 would add a new section to the Health and Safety Education Code to require public swimming pools to have emergency telephones on site.

The emergency telephone would be distinguishable from regular landlines by color, signage, and location and which provides direct communication to emergency services and/or emergency call centers with the capability of dispatching directly into EMS services near the pool site.

Background

Emergency telephones and other safeguards are not required at public pools. Counter-intuitive safety rules apply to public swimming pools located in parks, apartments, and other settings that are not in private homes.

Problem

California regulations only require emergency telephones at a public pool if a lifeguard is on duty. However, no emergency telephone is required if there is no lifeguard on duty. Having a lifeguard on duty is not required for most public swimming pools.¹

It should not be a surprise that most public swimming pools do not have lifeguards since that is the cheaper option and the common choice.

Unfortunately, this also means pool phones are not required. Essentially, when there isn't a lifeguard required to be at the pool, then there is no requirement to have an emergency telephone either.

It makes more sense to always have a telephone available, especially if there is no lifeguard. This way there is some safety measure available at the pool that could be lifesaving.

Solution

Emergency telephones can be used for more than drowning injuries. These uses include children who have been locked out of their home, domestic disputes, burglary, auto theft, to report a fire, and a myriad of medical emergencies that can occur.

These uses support the need for emergency phones not only near and around pool areas, but also in strategic external areas property-wide. For pool phones, this also highlights the need for a monitored emergency phone year-round and not just in pool season, because this emergency outdoor phone has many uses.

Staff Contact

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¹ Lifeguard services are only required for public swimming pools where a direct fee is charged. Otherwise, signage indicating

lifeguard services are not provides complies with California Health and Safety Code § 116045(a).

Introduced by Senator BlakespearFebruary 12, 2024

An act to add Chapter 6 (commencing with Section 25000) to Division 20 of the Health and Safety Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 1066, as introduced, Blakespear. Hazardous waste: marine flares: producer responsibility.

(1) Under existing law, as part of the hazardous waste control laws, the Department of Toxic Substances Control (DTSC) generally regulates the management and handling of hazardous waste and hazardous materials.

This bill would create a producer responsibility program for marine flares. The bill would define “covered product” to mean a pyrotechnic device that produces a brilliant light or a plume of colorful smoke as a visual distress signal on marine vessels to attract attention and pinpoint a boater’s location in an emergency. The bill would require a producer of a covered product to register with a product responsibility organization, which would be required to develop and implement a producer responsibility plan for the collection, transportation, and the safe and proper management of covered products. The bill would require DTSC to adopt regulations to implement the act with an effective date no earlier than January 1, 2027.

This bill would require, within 9 months of the effective date of the regulations, a PRO to prepare and submit a product responsibility plan to DTSC. The bill would require the plan to include specified elements, including a funding mechanism that provides sufficient funding to carry out the plan. The bill would require, within 90 days of receipt of the plan, DTSC to approve, approve in part, or disapprove the plan, as

provided. The bill would require a PRO to resubmit a plan if its plan is not fully approved.

This bill would require a PRO to implement its plan within 90 days of approval. The bill would require the plan to be fully funded in a manner that equitably distributes the plan's costs among participant producers that reflects sales volumes and the cost to manage the covered products that a producer produces.

This bill would require the PRO to prepare and submit to DTSC and make publicly available an annual report describing the activities carried out pursuant to the plan. The bill would require the PRO to retain specified documents, annually audit its accounting books, and make documents available to DTSC for review, as specified. The bill would require all reports and records provided to DTSC pursuant to the act to be provided under the penalty of perjury. By expanding the scope of a crime, the bill would impose a state-mandated local program.

The bill would require a participant producer, through the PRO, to pay DTSC, on an unspecified schedule, an annual administrative charge, as determined by DTSC. The bill would require the charge be set at an amount that is adequate to cover DTSC's full costs of administering and enforcing the act. The bill would provide for the imposition of administrative civil penalties upon any person who violates the act. The bill would establish the Marine Flare Recovery Fund in the State Treasury and would require the administrative charges collected by DTSC to be deposited into that account for expenditure by DTSC, upon appropriation by the Legislature, to cover DTSC's cost to implement and enforce the act. The bill would also establish the Marine Flare Recovery Penalty Account in the Marie Flare Recovery Fund and would require that the civil penalties collected by DTSC pursuant to the act be deposited in that account, for expenditure by DTSC, upon appropriation by the Legislature, on activities related to the collection, reuse, and safe and proper management of covered products, grants for related purposes, and the administration and enforcement of the act.

(2) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(3) 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 no reimbursement is required by this act for a specified reason.

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. Chapter 6 (commencing with Section 25000) is
2 added to Division 20 of the Health and Safety Code, to read:

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CHAPTER 6. MARINE FLARES

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Article 1. Purpose and General Provisions

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25000. (a) This chapter shall be known, and may be cited, as the Marine Flare Producer Responsibility Act of 2024.

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(b) The purpose of this chapter is to provide for the safe and proper management of pyrotechnic marine flares, which pose significant threats to health and safety and may cause significant and costly damage to the environment when managed improperly.

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25001. Except as provided in Section 25014, the department shall adopt, amend, or repeal, in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), regulations to implement this chapter. The department shall not adopt regulations pursuant to this section with an effective date earlier than January 1, 2027.

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Article 2. Definitions

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25005. For purposes of this chapter, the following definitions apply:

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(a) (1) “Approved plan” means a producer responsibility plan that has been approved by the department pursuant to Section 25020 and that has not been revoked by the department pursuant to Section 25052.

- 1 (2) A conditionally approved plan is an approved plan, except
2 as used in Section 25020.
- 3 (3) A partially approved plan is not an approved plan.
- 4 (b) “Brand” means a trademark, including both a registered
5 trademark and an unregistered trademark, a logo, a name, a symbol,
6 a word, an identifier, or a traceable mark that identifies a covered
7 product and identifies the owner or licensee of the brand.
- 8 (c) “Collection site” means a permanent or temporary location
9 where a covered product is collected and prepared for transport in
10 accordance with the requirements of this chapter.
- 11 (d) “Consumer” means a person who owns a covered product
12 and includes the ultimate purchaser, owner, or lessee of a covered
13 product, who is not, as to that covered product, the distributor,
14 importer, producer, recycler, retailer, or stewardship organization.
- 15 (e) “Contact information” means name, physical address,
16 mailing address, email address, and telephone number.
- 17 (f) “Covered product” means a pyrotechnic device that produces
18 a brilliant light or a plume of colorful smoke as a visual distress
19 signal on marine vessels to attract attention and pinpoint a boater’s
20 location in an emergency.
- 21 (g) “Department” means the Department of Toxic Substances
22 Control.
- 23 (h) “Distributor” means a person that has a contractual
24 relationship with one or more producers to market and sell covered
25 products to retailers.
- 26 (i) “Importer” means either of the following:
 - 27 (1) A person qualifying as an importer of record for purposes
28 of Section 1484(a)(2)(B) of Title 19 of the United States Code
29 regarding the import of a covered product that is sold, distributed
30 for sale, or offered for sale in or into the state that was
31 manufactured or assembled by a company outside of the United
32 States.
 - 33 (2) A person importing into the state for sale, distributing for
34 sale, or offering for sale in the state a covered product that was
35 manufactured or assembled by a company physically located
36 outside of the state.
- 37 (j) (1) “Producer” means a person who manufactures a covered
38 product and who sells, offers for sale, or distributes a covered
39 product into the state under the person’s own name or brand.

1 (2) If there is no person in the state who is the producer for
2 purposes of paragraph (1), the producer of the covered product is
3 the owner or licensee of a brand under which the covered product
4 is sold or distributed into the state. For purposes of this subdivision,
5 an exclusive licensee is a person holding the exclusive right to use
6 a brand in the state in connection with the manufacture, sale, or
7 distribution for sale in or into the state of the covered product.

8 (3) If there is no person in the state who is the producer for
9 purposes of paragraph (1) or (2), the producer of the covered
10 product is the person that imports the covered product into the
11 state for sale, distribution, or installation.

12 (4) If there is no person in the state who is the producer for
13 purpose of paragraph (1), (2), or (3), the producer of the covered
14 product is the distributor, retailer, dealer, or wholesaler who sells
15 the product in or into the state.

16 (5) For purposes of this chapter, the sale of a covered product
17 shall be deemed to occur in the state if the covered product is
18 delivered to the consumer in the state.

19 (k) “Producer responsibility organization” or “PRO” means an
20 organization that is exempt from taxation under Section 501(c)(3)
21 of the federal Internal Revenue Code of 1986 that is appointed by
22 one or more producers to act as an agent on behalf of all producers
23 to design, submit, and administer a producer responsibility plan
24 pursuant to this chapter.

25 (l) “Producer responsibility plan” or “plan” means the plan
26 developed by a PRO for the collection, transportation, and the safe
27 and proper management of covered products pursuant to Article
28 4 (commencing with Section 25020) and submitted to the
29 department for approval pursuant to Section 25020.

30 (m) “Retailer” means a person who sells or offers for sale a
31 covered product in or into the state to a person through any means,
32 including, but not limited to, sales outlets, catalogs, the telephone,
33 the internet, or any electronic means.

34 (n) “Stewardship program” means a program established by a
35 program operator pursuant to this chapter for free at drop off,
36 convenient, and safe collection, transportation, and proper
37 management of covered products.

1 Article 3. Producer Responsibility Organization

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3 25010. (a) All producers shall register with a single PRO to
4 develop and implement a plan on behalf of all producers. Subject
5 to subdivision (c) of Section 25013 and Section 25055, there shall
6 be only one PRO.

7 (b) No later than 30 days after the effective date of the
8 regulations described in Section 25001, a producer shall notify the
9 department electronically that the producer has registered with the
10 PRO to develop and implement a plan on its behalf and to identify
11 the PRO.

12 (c) A producer shall register with the PRO in accordance with
13 the procedures and requirements established by the PRO.

14 (d) A producer shall not sell, offer for sale, import, or distribute
15 a covered product in the state unless all the following are met:

16 (1) The producer has registered with the PRO.

17 (2) The covered product is accounted for in the plan.

18 (3) The department has approved the PRO’s plan.

19 (e) A producer shall provide notice of its intent to comply with
20 the requirements of this chapter to all persons through which it
21 sells, distributes, imports, or offers for sale a covered product in
22 or into the state. A producer shall provide this notice no later than
23 180 days after the effective date of this chapter.

24 (f) If an entity does not meet the definition of producer and is
25 not subject to this chapter but, at any point, meets the definition
26 of a producer, that entity shall be deemed a producer and shall
27 register with the PRO and otherwise comply with the requirements
28 of this chapter before beginning to sell, offer for sale, import, or
29 distribute covered products in the state.

30 25011. (a) No later than 30 days after the effective date of the
31 regulations described in Section 25001, a producer shall provide
32 to the department, in a form and manner established by the
33 department, the following:

34 (1) The producer’s contact information.

35 (2) A list of covered products and brands of covered products
36 that the producer sells, distributes for sale, imports for sale, or
37 offers for sale in or into the state.

38 (b) A producer shall provide to the department updates to the
39 information described in subdivision (a) on or before January 15

1 of each year, within 30 days of changes to the information, and
2 upon the department's request.

3 25012. A PRO shall notify the department within 30 calendar
4 days of any of the following:

5 (a) The end of a three-month period in which the PRO
6 unsuccessfully attempted to obtain a fee, records, or information
7 from a producer registered with the PRO.

8 (b) The date that a producer no longer participates in the PRO's
9 approved plan.

10 (c) Any instance of noncompliance by a participant producer.

11 25013. (a) A PRO shall demonstrate in its plan that it has
12 adequate financial responsibility and financial controls in place,
13 including fraud prevention measures and an audit schedule, to
14 ensure proper management of funds.

15 (b) The activities of the PRO shall be limited to carrying out
16 the requirements of this chapter.

17 (c) In the event that the department determines that the PRO no
18 longer meets the requirements of this chapter or fails to implement
19 or administer an approved plan in a manner that effectuates the
20 purposes of this chapter, the department may revoke its approval
21 of the plan and may approve an alternative plan submitted by
22 another PRO pursuant to Section 25055.

23 25014. (a) The department shall establish performance
24 standards for the PRO.

25 (b) Performance standards categories shall include, but not be
26 limited to, collection of the covered product.

27 (c) The performance standards shall specify dates for
28 compliance.

29 (d) The department may adjust performance standards and
30 compliance dates based on information included in the plan and
31 annual reports, other information provided by the PRO, department
32 waste characterization studies, economic information, and any
33 other relevant information.

34 (e) Performance standards published by the department pursuant
35 to this subdivision shall not be subject to the requirements of
36 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
37 3 of Title 2 of the Government Code.

38 (f) The PRO shall meet the performance standards described in
39 subdivision (a).

40 25015. The PRO shall implement its approved plan.

1 Article 4. Producer Responsibility Plans

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25020. (a) Within nine months of the effective date of the regulations described in Section 25001, a PRO shall develop and submit a proposed plan to the department, in a form and manner determined by the department.

(b) The department shall review the plan for compliance with this chapter. Within 90 calendar days of receipt of the plan from the PRO, the department shall respond with an approval, disapproval, conditional approval, request for additional information, or timeline for a decision on approval or disapproval.

(c) The department shall approve, approve in part, or deny a proposed plan after providing a 30-day public comment period.

(d) If the department approves a proposed plan, a revised plan, or a conditionally approved plan, then the department shall notify the PRO of the approval. The PRO shall implement the approved plan within 90 days of receipt of the notice of approval, or as otherwise agreed to by the department.

(e) If the department conditionally approves the plan, then the department shall explain, in writing, how the plan or parts of the plan does not comply with this chapter, and the PRO shall ensure the conditions are met and resubmit a revised plan within 12 months.

(f) If the department disapproves the plan, the department shall explain, in writing, how the plan does not comply with this chapter, and the PRO shall resubmit a plan to the department. If the department finds that the plan resubmitted by the PRO does not comply with the requirements of this chapter, the PRO shall not be deemed in compliance with this chapter until the organization submits a plan that the department finds complies with the requirements of this chapter.

(g) An approved plan shall be public record published on the department's internet website, except that financial, production, or sales data reported by the PRO to the department for purposes of the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) and shall not be open to public inspection. The department may release financial or sales data in summary form only so the information cannot be attributable to a specific entity.

25021. A plan shall do all of the following:

1 (a) (1) Be developed to accept and manage all covered products
2 at the end of their useful life. An expiration date on a covered
3 product shall be determinative of its useful life.

4 (2) A plan shall include all covered products and shall not
5 exclude covered products on the basis that the covered products
6 are not from a producer registered with the PRO.

7 (b) Include the contact information of each producer registered
8 with the PRO and covered by the plan.

9 (c) Demonstrate how the PRO will comply with Section 25030,
10 including a five-year budget that demonstrates how the PRO will
11 comply with subdivision (b) of Section 25030.

12 (d) Describe how collection sites will be managed, including
13 all of the following:

14 (1) How the PRO will provide a free and convenient collection
15 system for covered products, which shall include permanent
16 collections sites and may include temporary collections sites.

17 (2) A description of how the PRO will provide to the collection
18 sites, at no cost to consumers or other entities involved in the
19 collection, the appropriate training, signage, safety guidance,
20 educational materials, and any other items or information necessary
21 for the safe collection and temporary storage of covered materials.

22 (3) An explanation of the process by which the PRO will provide
23 for the transport of covered products from the collection sites.

24 (4) A list of all proposed rules, conditions, and requirements
25 for collection sites and recyclers.

26 (5) A list of all proposed rules, conditions, and requirements
27 for collection sites and recyclers, including a template proposed
28 agreement for each of those types of entities as applicable.

29 (e) Describe how the PRO will meet performance standards
30 with associated metrics, and the dates by which the performance
31 standards will be achieved for the performance standards categories
32 identified in Section 25014.

33 (f) Describe the process by which collected covered products
34 will be handled and managed following collection, including all
35 of the following:

36 (1) A description of how covered products will be handled and
37 managed according to the waste management practices specified
38 in Section 40051 of the Public Resources Code, including a
39 description of how the PRO will use the best available management
40 technologies.

1 (2) A description of the annual assessment the PRO will conduct
2 and the metrics it will use to determine how collection, sorting,
3 transportation, and management outcomes aligned with projections.

4 (3) A description of how the PRO will achieve an equitable and
5 circular system that improves the collection, processing, and
6 management operations for covered products, including, but not
7 limited to, pilot programs to test new processes, methods, or
8 equipment.

9 (g) Include a contingency plan in the event the plan expires or
10 is revoked. The contingency plan shall guarantee that all the
11 contracts, financial data, and any other necessary authority and
12 assets to operate the program shall vest in a trustee approved by
13 the department. The trustee shall operate the most recently
14 approved plan, subject to the direction of the department, until the
15 time a new plan is approved. Upon plan expiration or revocation
16 of the plan, the balance of the PRO's operating reserves collected
17 shall be transferred to the control of the trustee within five calendar
18 days. All documents, digital records, contracts, and files related
19 to the operation of the plan shall be transferred to the control of
20 the trustee within five calendar days.

21 25022. A plan shall include a section describing a
22 comprehensive statewide education and outreach program designed
23 to educate consumers and promote participation in the program
24 offered by the PRO. The comprehensive statewide education and
25 outreach program shall do all of the following:

26 (a) Promote the safe and proper management of covered
27 products and shall not promote the disposal of covered products
28 in a manner inconsistent with the services offered by the plan.

29 (b) Include information for consumers on how to avoid improper
30 disposal of covered products.

31 (c) Include a description of the education and outreach efforts
32 to various audiences, including, but not limited to, consumers to
33 promote their participation in achieving the purposes of the plan.
34 These education and outreach materials shall include, but not be
35 limited to, all of the following:

36 (1) An internet website that publicizes the entire process for
37 collection, including collection location sites in addition to any
38 other information necessary to consumers for the safe collection
39 and handling of covered products.

1 (2) Signage at point of sale and in marinas that is prominently
2 displayed and easily visible.

3 (3) All signage and material required for collection sites by the
4 PRO, and the method by which the collection sites can access
5 replacement materials at no cost to the collection site.

6 (4) Promotional materials, activities, or both that explain the
7 purpose of the PRO and the means by which it is managing covered
8 products.

9 (5) A description of strategies, goals, and metrics the PRO will
10 use to annually assess and evaluate the efficacy of the
11 comprehensive statewide education and outreach program.

12 25023. (a) The PRO shall review its approved plan at least
13 every five years and determine whether revisions are necessary.

14 (b) If the PRO determines that revisions to its approved plan
15 are necessary, the PRO shall submit to the department a revised
16 plan for review and approval using the procedures set forth in
17 Section 25020. The PRO shall submit the revised plan to the
18 department pursuant to this subdivision at least 12 months before
19 the review deadline outlined in subdivision (a). The revised plan
20 shall include a cover letter that summarizes the revisions to the
21 plan.

22 (c) If the PRO determines that no revisions to the plan are
23 necessary, the PRO shall send a letter to the department, 12 months
24 before the review deadline outlined in subdivision (a) explaining
25 that the PRO has reviewed the plan and determined that no
26 revisions are needed. The department may, after hearing public
27 input, disapprove the PRO's determination within 30 days of
28 receipt of the letter if the department concludes that the PRO cannot
29 implement the objectives of this chapter without revising the plan.
30 In the event the department disapproves the PRO's determination,
31 the department may indicate to the PRO which sections, at
32 minimum, of the plan need revision, and the PRO shall submit to
33 the department a revised plan, or plan sections, for review and
34 approval, following the procedures set forth in Section 25020. The
35 PRO shall submit the revised plan pursuant to this subdivision
36 within 60 days of receipt of the department's disapproval.

37 (d) The department may consult with or submit the revised plan
38 to another state agency or department if the department determines
39 it is necessary for making its determination. The duration of time

1 the department takes for this consultation is not included in the
2 time allotted to the department for review pursuant to this section.

3

4

Article 5. Financial Provisions

5

6 25030. The PRO shall do all of the following:

7 (a) Establish a method for fully funding its plan in a manner
8 that equitably distributes the plan's costs among participating
9 producers that reflects sales volumes and the cost to manage the
10 covered products the producer produces.

11 (b) (1) Operate on a budget that establishes a funding level
12 sufficient to operate the PRO in a prudent and responsible manner.
13 The budget shall demonstrate how the PRO's estimated revenues
14 cover all the PRO's budgeted costs for each cost category.
15 Budgeted costs shall include, but not be limited to, administrative
16 costs, capital costs, and a reserve.

17 (2) Administrative costs shall include the department's actual
18 and reasonable regulatory costs, which include full personnel costs,
19 to implement and enforce this chapter, as the criteria for all costs
20 are defined in the regulations described in Section 25001. For
21 purposes of this paragraph, PRO implementation begins once the
22 department approves the PRO's plan, except the department's
23 costs shall include actual regulatory development costs and other
24 startup costs incurred prior to plan submittal and approval.

25 (3) The reserve shall include funds to operate the PRO should
26 there be unexpected events, losses of income, or large unbudgeted
27 expenses. It shall also protect the infrastructure the PRO relies on
28 in its plan during any lapse in producer participation during the
29 life of the program. The reserve cost category shall include a
30 reserve level amount description justifying the reserve level amount
31 indicated. The PRO shall maintain reserve funds sufficient to
32 operate the plan for not less than six months. In the event that a
33 new PRO is approved by the department, the PRO shall establish
34 its reserve and maintain the required reserve fund balance by the
35 end of the second year of plan operation. In the event the PRO's
36 plan expires or is revoked, the reserve balance shall be transferred
37 to a successor PRO or a trustee pursuant to the portion of the plan
38 described in subdivision (g) of Section 25021.

1 (c) On a schedule determined by the department, pay the
2 department fees to cover the department's reasonable regulatory
3 cost as described in Section 25032.

4 (d) Establish a process by which the financial activities of the
5 PRO that are related to implementation of the plan will be subject
6 to an independent audit consistent with generally accepted
7 accounting principles (GAAP) and pursuant to Section 25042.
8 Written certification by an authorized representative of the PRO
9 that, at the time of submission to the department, all aspects of the
10 plan are in compliance with all applicable state and federal laws
11 and regulations.

12 25031. Each producer shall, through the PRO, pay all
13 administrative and operation costs associated with establishing
14 and implementing the PRO's approved plan, including the cost of
15 collection, transportation, and the safe and proper management of
16 covered products.

17 25032. (a) Within four months of the effective date of the
18 regulations described in Section 25001, the department shall notify
19 the PRO of the estimated regulatory costs and the criteria for the
20 costs specified in the regulations. Those costs shall include the
21 costs associated with developing the regulations and other
22 department activities that occur before plan submittal and approval,
23 including, but not limited to, full personnel costs related to
24 implementing and enforcing this chapter. The costs shall not exceed
25 the department's reasonable regulatory costs to implement and
26 enforce this chapter.

27 (b) The department shall deposit all moneys received from the
28 PRO pursuant to this section into the Marine Flare Recovery Fund,
29 which is hereby established in the State Treasury.

30 (c) Upon appropriation by the Legislature, moneys in the Marine
31 Flare Recovery Fund shall be expended by the department to
32 implement and enforce this chapter, as well as to reimburse any
33 standing loans made from other funds used to finance regulation
34 development, and startup costs of the department's activities
35 pursuant to this chapter.

36 (d) The moneys in the Marine Flare Recovery Fund shall only
37 be expended for purposes described in subdivision (c).

38 25033. (a) (1) A PRO, as part of its plan, shall set up a trust
39 fund or an escrow account, into which it shall deposit all
40 unexpended funds and ongoing consumer assessments, for use in

1 accordance with this section in the event that the plan terminates
2 or is revoked.

3 (2) For purposes of this subdivision, “unexpended funds” means
4 assessment moneys in the PRO’s accounts that the PRO is not
5 already obligated to pay pursuant to a contract, claim, or similar
6 mechanism.

7 (b) If a plan terminates or is revoked, the trustee or escrow agent
8 of a trust fund or escrow account set up pursuant to subdivision
9 (a) shall do both of the following, starting within 30 days:

10 (1) Accept payments directly from producers into the trust fund
11 or escrow account that would have been made to the PRO prior to
12 the plan’s termination or revocation.

13 (2) Make payments from the trust fund or escrow account as
14 the department shall direct, in writing, to implement the most
15 recently approved plan.

16 (c) If a new plan has not been approved by the department within
17 one year after termination or revocation, the department may make
18 modifications to the previously approved plan, as it deems
19 necessary, and continue to direct payments from the trust fund or
20 escrow account in accordance with paragraph (2) of subdivision
21 (b) to implement the modified plan.

22 (d) A trustee or escrow agent in possession of assessment funds
23 shall, as directed by the department, transfer those funds to a
24 successor PRO with an approved plan.

25

26 Article 6. Records, Audits, and Reports

27

28 25040. (a) The PRO shall keep board minutes, books, and
29 records that clearly reflect the activities and transactions of the
30 PRO. Each producer or PRO with an approved plan shall maintain
31 all records relating to the approved plan for a period of not less
32 than five years.

33 (b) The department may audit the PRO annually.

34 (c) The failure of the PRO, a producer, or their respective agent
35 who holds records to produce documents or data that is requested
36 by the department, required to be collected or generated to carry
37 out operation of the plan in the form and manner determined by
38 the department as part of a department audit, or review of a
39 third-party audit, shall constitute a violation of this chapter.

1 25041. (a) A producer, PRO, manufacturer, distributor, retailer,
2 dealer, or importer shall do both of the following:

3 (1) Upon request, provide the department with reasonable and
4 timely access, as determined by the department, to its facilities
5 and operations, as necessary to determine compliance with this
6 chapter.

7 (2) Upon request, within 14 days, provide the department with
8 relevant records, as determined by the department, necessary to
9 determine compliance with this chapter.

10 (b) All reports and records provided to the department pursuant
11 to this chapter shall be provided under penalty of perjury.

12 (c) The department may impose administrative civil penalties
13 pursuant to Article 7 (commencing with Section 25050) on a
14 producer, PRO, manufacturer, distributor, retailer, dealer, or
15 importer that fails to provide the department with the access
16 required pursuant to this section.

17 25042. (a) The PRO shall retain an independent public
18 accountant, certified in the United States, to annually audit the
19 accounting books of the PRO. The department shall review the
20 independent certified public accountant audit for compliance with
21 this chapter and consistency with the PRO's approved plan and
22 the annual report required by Section 25043. After the department
23 conducts its own audit, the department shall notify the PRO of any
24 conduct or practice that does not comply with this chapter or of
25 any inconsistencies identified in the audit. The PRO may obtain
26 copies of the department's audit, including proprietary information
27 contained in the department's audit, upon request. The producer
28 or PRO may withhold from disclosure confidential proprietary
29 information to the extent allowed under Section 1040 of the
30 Evidence Code and the California Public Records Act (Division
31 10 (commencing with Section 7920.000) of Title 1 of the
32 Government Code). The items submitted to the department as part
33 of the independent audit shall include:

34 (1) Financial statements audited in accordance with generally
35 accepted accounting principles (GAAP).

36 (2) An audit of the PRO's compliance with this chapter.

37 (3) An audit of the PRO's adherence to, execution of, and
38 consistency with its approved plan.

39 (b) The PRO shall include the independent audit in its annual
40 report submitted to the department pursuant to Section 25043

1 commencing within 18 months of plan approval by the department.
2 The department shall review the audit for compliance with this
3 chapter and consistency with the PRO's approved plan.

4 25043. On or before January 1 of each year, the PRO shall
5 submit to the department, and make publicly available, an annual
6 report, in a format prescribed by the department, that includes, at
7 minimum, all of the following information for the preceding
8 calendar year, unless otherwise specified:

9 (a) The PRO's costs, according to the cost categories established
10 in the plan, and revenues.

11 (b) A summary of any anticipated changes to allocations in cost
12 categories for the next calendar year.

13 (c) Any changes to the distribution of costs to the producers
14 registered with the PRO.

15 (d) The names and updated contact information for the producers
16 registered with the PRO.

17 (e) An estimate of the quantity of covered products sold in or
18 into the state by the producers registered with the PRO, as
19 determined by the best available commercial data.

20 (f) The number of collection sites, listed by name, location, and
21 type, from which the covered products were picked up.

22 (g) The total number of covered products collected.

23 (h) The number of covered products picked up from each
24 collection site.

25 (i) A complete accounting of the ultimate disposition of all
26 covered products collected by the PRO, including the total weight
27 of materials that were disposed of.

28 (j) Metrics and a description of the progress towards attaining
29 the performance standards included in the approved plan.

30 (k) An evaluation of the effectiveness of methods and processes
31 used to achieve the performance goals of the program.

32 (l) A description of methods used to collect, transport, and
33 manage covered products by the PRO, including a description of
34 all of the following:

35 (1) How the PRO handled and managed covered products
36 according to the waste hierarchy as defined in Section 40051 of
37 the Public Resources Code.

38 (2) Results of the PRO's assessment of the efficacy of the
39 collection and transportation process pursuant to subdivision (f)
40 of Section 25021.

1 (m) A description of how the PRO improved the convenience
2 of collection and improved processing operations for covered
3 products, including, but not limited to, pilot programs to test new
4 processes, methods, or equipment.

5 (n) A summary of the public education used to promote
6 consumer knowledge of the program, including the PRO's
7 evaluation of the efficacy of the comprehensive statewide education
8 and outreach program pursuant to Section 25022.

9 (o) Recommendations for any future proposed substantial
10 changes to the program that may submitted for the department's
11 approval pursuant to Section 25020, if applicable.

12 (p) Any other information required by regulations adopted
13 pursuant to Section 25001.

14 25044. (a) No later than 90 days of receipt of an annual report,
15 the department shall start a 30-day public comment period
16 regarding an annual report.

17 (b) No later than 120 days after receipt of an annual report, and
18 after completion of the public comment period required by
19 subdivision (a), the department shall notify the PRO if the annual
20 report is compliant or noncompliant.

21 (c) If the department determines that the annual report is
22 noncompliant due to failure to meet the requirements of this
23 chapter, the department may require the resubmittal of the annual
24 report and take enforcement action.

25 (d) The department may consult with or submit the annual report
26 to a state agency or department if it determines it is necessary for
27 making a determination of compliance or noncompliance of an
28 annual report. The duration of time the department takes for this
29 consultation shall not be included in the time allotted to the
30 department for review pursuant to subdivision (a).

31
32 Article 7. Enforcement
33

34 25050. A retailer, dealer, importer, or distributor shall not sell,
35 distribute, offer for sale, or import a covered product in or into the
36 state unless the producer of the covered product is listed as a
37 compliant producer pursuant to Section 25051 or received a
38 certification letter described in subdivision (e) of Section 25051.

39 25051. (a) Within 12 months of the effective date of the
40 regulations described in Section 25001, and on or before July 1 of

1 each year thereafter, the department shall publish on the
2 department's internet website, a list of the names of producers that
3 are compliant with this chapter. The department shall list, as
4 appropriate, the reported brands of covered products for each
5 producer.

6 (b) A retailer, importer, or distributor shall monitor the
7 department's internet website to determine if a producer, brand,
8 or covered product is in compliance with this chapter for that brand.

9 (c) Notwithstanding any other provision of this chapter, upon
10 identification of a producer that is not registered with the PRO
11 with an approved plan, the department shall issue a notice of
12 noncompliance to the producer.

13 (d) If the department determines a producer is not in compliance
14 with this chapter, the department shall remove the producer, along
15 with its brands of covered products, from the compliance list.

16 (e) A producer that is not listed on the department's internet
17 website pursuant to subdivision (b) that demonstrates compliance
18 with this chapter before the next list is posted by the department
19 may either be added to the internet website or be provided a
20 certification letter from the department stating that the producer
21 of a covered product is in compliance with this chapter.

22 25052. (a) A civil penalty up to the following amounts may
23 be administratively imposed by the department on any person who
24 is in violation of any provision of this chapter:

25 (1) Ten thousand dollars (\$10,000) per day.

26 (2) Fifty thousand dollars (\$50,000) per day if the violation is
27 intentional or knowing.

28 (b) In assessing or reviewing the amount of a civil penalty
29 imposed pursuant to subdivision (a) or (b) for a violation of this
30 chapter, the department or the court shall consider all of the
31 following:

32 (1) The nature and extent of the violation.

33 (2) The number and severity of the violation or violations.

34 (3) The economic effect of the penalty on the violator.

35 (4) Whether the violation took good faith measures to comply
36 with this chapter and the period of time over which these measures
37 were taken.

38 (5) The willfulness of the violators misconduct.

39 (6) The deterrent effect that the imposition of the penalty would
40 have on both the violator and the regulated community.

1 (7) Any other factor that justice may require.

2 (c) Upon written finding that a PRO, producer, importer,
3 distributor, or any other party regulated has not met a material
4 requirement of this chapter, in addition to any other penalties
5 authorized under this chapter, the department may take one or both
6 of the following actions to ensure compliance with the requirements
7 of this chapter, after affording the PRO, producer, importer,
8 distributor, or any other party regulated, an opportunity to respond
9 to or rebut the finding:

10 (1) Revoke the PRO's plan approval or require the PRO to
11 resubmit the plan or plan section.

12 (2) Require additional reporting relating to compliance with the
13 material requirements of this chapter that were not met.

14 (d) The department shall deposit all penalties collected pursuant
15 to this section into the Marine Flare Recovery Penalty Account,
16 which is hereby created in the Marine Flare Recovery Fund. Upon
17 appropriation by the Legislature, moneys in the Marine Flare
18 Recovery Penalty Account shall be available for expenditure by
19 the department on activities related to the collection, reuse, and
20 safe and proper management of covered products, grants for related
21 purposes, and the administration and enforcement of this chapter.

22 (e) The Administrative Adjudication Bill of Rights as set forth
23 in Article 6 (commencing with Section 11425.10) of Chapter 4.5
24 of Part 1 of Division 3 of Title 2 of the Government Code, applies
25 to hearings conducted under this chapter and mandates minimum
26 due process.

27 25053. (a) After the time for judicial review under Section
28 11523 of the Government Code has expired, the department may
29 apply to the small claims court or superior court, depending on the
30 jurisdictional amount and any other remedy sought, in the county
31 where the penalties, restitution, or other remedy was imposed by
32 the department, for a judgment to collect any unpaid civil penalties
33 or restitution or to enforce any other remedy provided by this
34 chapter. The application, which shall include a certified copy of
35 the final agency order or decision, shall constitute a sufficient
36 showing to warrant the issuance of the judgment. The court clerk
37 shall enter the judgment immediately in conformity with the
38 application. The judgment so entered shall have the same force
39 and effect as and shall be subject to all the provisions of law
40 relating to a judgment in a civil action and may be enforced in the

1 same manner as any other judgment of the court. The court shall
2 make enforcement of the judgment a priority.

3 (b) If, in the judgment of the Director of Toxic Substances
4 Control, a person has engaged in or is about to engage in an act,
5 practice, or omission that constitutes, or will constitute, a violation
6 of this chapter, the Attorney General may, at the request of the
7 director, bring an action in the superior court for an order enjoining
8 the act, practice, or omission. The order may require remedial
9 measures and direct compliance with this chapter. Upon a showing
10 by the director that the person has engaged in or is about to engage
11 in that act, practice, or omission, the superior court may issue a
12 permanent or temporary injunction, restraining order, or other
13 order, as appropriate.

14 (c) An action brought by the Attorney General pursuant to this
15 section shall have precedence in respect to the order of trial over
16 all other civil actions not brought by or on behalf of the state,
17 except actions regarding probate bonds.

18 25054. A producer shall not be subject to penalties pursuant
19 to this article for noncompliance with subdivision (d) of Section
20 25010 until two years from the effective date of the regulations
21 described in Section 25001.

22 25055. (a) A PRO that violates this chapter three or more times
23 shall be ineligible to act as an agent on behalf of a manufacturer
24 to design, submit, and administer a plan pursuant to this chapter.

25 (b) If a PRO becomes ineligible pursuant to subdivision (a) to
26 operate as a PRO under this chapter, the successor provisions in
27 subdivisions (b), (c), and (d) of Section 25033 shall apply.

28

29

Article 8. Antitrust Immunity

30

31 25060. (a) Except as provided in subdivision (b), an action
32 that is taken by a producer or producer responsibility organization,
33 is not a violation of the Cartwright Act (Chapter 2 (commencing
34 with Section 16700) of Part 2 of Division 7 of the Business and
35 Professions Code), the Unfair Practices Act (Chapter 4
36 (commencing with Section 17000) of Part 2 of Division 7 of the
37 Business and Professions Code), or the Unfair Competition Law
38 (Chapter 5 (commencing with Section 17200) of Part 2 of Division
39 7 of the Business and Professions Code) to the extent the producer

1 or producer responsibility organization, is exercising authority
2 pursuant to this chapter.

3 (b) Subdivision (a) applies to all of the following actions taken
4 by the PRO:

5 (1) The creation, implementation, or management of a plan
6 approved or conditionally approved by the department pursuant
7 to this chapter and the determination of the types or quantities of
8 covered products recycled or otherwise managed pursuant to a
9 plan.

10 (2) The determination of the cost and structure of an approved
11 plan.

12 (3) The establishment, administration, collection, or
13 disbursement of a charge associated with funding the
14 implementation of this chapter.

15 (c) Subdivision (a) does not apply to an agreement that does
16 any of the following:

17 (1) Fixes a price of or for covered products.

18 (2) Fixes the output or production of covered products.

19 (3) Restricts the geographic area in which, or customers to
20 whom, covered products will be sold.

21 SEC. 2. The Legislature finds and declares that Section 1 of
22 this act, which adds Section 25020 to the Health and Safety Code,
23 imposes a limitation on the public's right of access to the meetings
24 of public bodies or the writings of public officials and agencies
25 within the meaning of Section 3 of Article I of the California
26 Constitution. Pursuant to that constitutional provision, the
27 Legislature makes the following findings to demonstrate the interest
28 protected by this limitation and the need for protecting that interest:

29 In order to ensure the effective hazardous waste management
30 of, and viable markets for, marine flares, it is necessary to protect
31 the proprietary information of producers, retailers, wholesalers,
32 and solid waste enterprises by keeping confidential the financial,
33 production, and sales data reported by those entities under Section
34 1 of this act.

35 SEC. 3. No reimbursement is required by this act pursuant to
36 Section 6 of Article XIII B of the California Constitution because
37 the only costs that may be incurred by a local agency or school
38 district will be incurred because this act creates a new crime or
39 infraction, eliminates a crime or infraction, or changes the penalty
40 for a crime or infraction, within the meaning of Section 17556 of

- 1 the Government Code, or changes the definition of a crime within
- 2 the meaning of Section 6 of Article XIII B of the California
- 3 Constitution.

O



SB 1066: Marine Flare Producer Responsibility Act

to accept flares, leaving boaters with few options.

PURPOSE

SB 1066 will require producers of marine flares to fund and operate a convenient collection system to manage expired or unwanted flares, which are toxic and explosive, to ensure they are properly disposed of and don't pollute the water or environment.

PROBLEM

Pyrotechnic marine flares have historically been what boaters use to meet the federal requirement to carry U.S. Coast Guard (USCG) approved visual distress signals in case of emergencies. However, these flares contain toxic metals and pollutants that render them hazardous, reactive and explosive waste at EOL.

BACKGROUND

Federal law requires boats operating in coastal waters or bodies of water directly connected to coastal waters to be equipped with distress signals. Boaters most often meet this provision of the law by carrying three in-service flares approved for daytime *and* nighttime use. [According](#) to the U.S. Coast Guard (USCG) regulations, the average shelf life for flares is between 36 and 42 months from the manufacture date, requiring boaters to replace them approximately every three years.

[According](#) to the California State Parks Division of Boating and Waterways, an estimated 174,000 outdated flares are generated each year by recreational vessels in the state. However, a lack of convenient disposal options has created a significant EOL management problem, with many HHW facilities unable to accept them due to their not having the permits or proper equipment to safely handle explosives and the exorbitant costs to properly manage them.

The California Department of Toxic Substances Control (DTSC) and the Environmental Protection Agency (EPA), classify flares that will no longer be used for their intended purpose as hazardous waste, due to their being toxic, reactive and ignitable. Flares must be transported as explosives then disposed of at a facility permitted to manage explosives, making their end-of-life (EOL) management extremely costly. Due to excessive cost, many household hazardous waste (HHW) facilities refuse

Currently, there are no permitted facilities in California that can accept, treat, and/or dispose of non-military explosives waste streams. Collected flares must be packaged properly, transported by a licensed hazardous waste authorized driver and stored in a Class 4 magazine prior to shipment, according to the Bureau of Alcohol, Tobacco, Firearms and Explosives. It then must be shipped out-of-state to Missouri,

where the only facility still accepting high-hazard flares in the U.S. is located.

[According](#) to Zero Waste Sonoma, in 2023 it cost an estimated \$185 to properly dispose of one unwanted marine flare, when partnering with nearby jurisdictions to help share the cost of transportation. Without partnership, that cost is an estimated \$493 per flare. The same flares can be purchased new for approximately \$13 each.

Boaters in coastal communities across California are frustrated by the lack of disposal options for flares, with some stockpiling them or illegally disposing of them in trash or waterways. Flares contain toxic chemicals such as perchlorate, which is recognized as a water and health pollutant that can impact our waterways and impair thyroid function.

SOLUTION

SB 1066 will require producers to create an Extended Producer Responsibility (EPR) program to establish a free and convenient statewide collection program for the proper disposal of marine flares.

SUPPORT

National Stewardship Action Council (cosponsor)
Zero Waste Sonoma (cosponsor)
San Rafael Fire Department

STAFF CONTACT

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ASSEMBLY BILL

No. 2579

Introduced by Assembly Member Quirk-Silva

February 14, 2024

An act to add Section 97.80 to the Revenue and Taxation Code, relating to local government finance.

LEGISLATIVE COUNSEL'S DIGEST

AB 2579, as introduced, Quirk-Silva. Property tax revenue allocations: County of Orange: county equity amount.

Existing property tax law requires the county auditor, in each fiscal year, to allocate property tax revenue to local jurisdictions in accordance with specified formulas and procedures, and generally requires that each jurisdiction be allocated an amount equal to the total of the amount of revenue allocated to that jurisdiction in the prior fiscal year, subject to certain modifications, and that jurisdiction's portion of the annual tax increment, as defined. Existing property tax law also reduces the amounts of ad valorem property tax revenue that would otherwise be annually allocated to the county, cities, and special districts pursuant to these general allocation requirements by requiring, for purposes of determining property tax revenue allocations in each county for the 1992–93 and 1993–94 fiscal years, that the amounts of property tax revenue deemed allocated in the prior fiscal year to the county, cities, and special districts be reduced in accordance with certain formulas. Existing property tax law requires that the revenues not allocated to the county, cities, and special districts as a result of these reductions be transferred to the Educational Revenue Augmentation Fund in that county for allocation to school districts, community college districts, and the county office of education.

This bill, for the 2025–26 fiscal year and each fiscal year thereafter, would require the auditor of the County of Orange to increase the total amount of ad valorem property tax revenue that is otherwise required to be allocated to the county by the county equity amount, as defined, and to commensurately decrease the amount of ad valorem property tax revenue that is otherwise required to be allocated to the county Educational Revenue Augmentation Fund and, if necessary, the amount of those revenues otherwise required to be allocated to school districts.

By imposing new duties upon local officials in the allocation of ad valorem property tax revenues, this bill would impose a state-mandated local program.

This bill would make legislative findings and declarations as to the necessity of a special statute for the County of Orange.

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 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 97.80 is added to the Revenue and
- 2 Taxation Code, to read:
- 3 97.80. (a) Notwithstanding any other law, for the 2025–26
- 4 fiscal year, and for each fiscal year thereafter, the auditor of the
- 5 County of Orange shall do both of the following:
- 6 (1) Increase the total amount of ad valorem property tax revenue
- 7 that is otherwise required to be allocated to the county by the
- 8 county equity amount.
- 9 (2) (A) Decrease the total amount of ad valorem property tax
- 10 revenue that is otherwise required to be allocated to the county
- 11 Educational Revenue Augmentation Fund by the county equity
- 12 amount.
- 13 (B) If, for any fiscal year, there is not enough ad valorem
- 14 property tax revenue that is otherwise required to be allocated to
- 15 a county Educational Revenue Augmentation Fund for the auditor

1 to complete the allocation reduction required by subparagraph (A),
2 the auditor shall additionally reduce the total amount of ad valorem
3 property tax revenue that is otherwise required to be allocated to
4 all school districts in the county for that fiscal year by an amount
5 equal to the difference between the county equity amount and the
6 amount of ad valorem property tax revenue that is otherwise
7 required to be allocated to the county Educational Revenue
8 Augmentation Fund for that fiscal year. This reduction for each
9 school district in the county shall be the percentage share of the
10 total reduction that is equal to the proportion that the total amount
11 of ad valorem property tax revenue that is otherwise required to
12 be allocated to the school district bears to the total amount of ad
13 valorem property tax revenue that is otherwise required to be
14 allocated to all school districts in a county. For purposes of this
15 subparagraph, “school districts” do not include any districts that
16 are excess tax school entities, as defined in Section 95.

17 (C) Any reduction in the amount of ad valorem property tax
18 revenues deposited in the county Educational Revenue
19 Augmentation Fund as a result of subparagraph (A) shall be applied
20 exclusively to reduce the amounts that are allocated from that fund
21 to school districts and county offices of education, and shall not
22 be applied to reduce the amounts of ad valorem property tax
23 revenues that are otherwise required to be allocated from that fund
24 to community college districts.

25 (b) For purposes of this section, the following definitions shall
26 apply:

27 (1) “County equity amount” shall mean the following:

28 (A) For the 2025–26 fiscal year, 1 percent of the total amount
29 of property tax revenue otherwise required to be allocated to the
30 county Educational Revenue Augmentation Fund.

31 (B) For the 2026–27 fiscal year, and each fiscal year thereafter,
32 the sum of the following amounts:

33 (i) The county equity amount for the prior fiscal year.

34 (ii) The product of the two following amounts:

35 (I) The amount described in subparagraph (A).

36 (II) The percentage change from the prior fiscal year to the
37 current fiscal year in gross taxable assessed valuation within the
38 jurisdiction of the County of Orange, as reflected in the equalized
39 assessment roll for those fiscal years.

1 (iii) If the county property tax threshold amount is less than 12
2 percent of countywide ad valorem property tax revenues and the
3 percentage change from the prior fiscal year to the current fiscal
4 year in gross taxable assessed valuation within the jurisdiction of
5 the County of Orange, as reflected in the equalized assessment roll
6 for those fiscal years, is greater than 3 percent, then the product
7 of the following amounts:

8 (I) The total amount of property tax revenue otherwise required
9 to be allocated to the county Educational Revenue Augmentation
10 Fund.

11 (II) The percentage change from the prior fiscal year to the
12 current fiscal year in gross taxable assessed valuation within the
13 jurisdiction of the County of Orange, as reflected in the equalized
14 assessment roll for those fiscal years, minus 3 percent.

15 (2) “County property tax threshold amount” equals the sum of
16 the following amounts:

17 (A) The County of Orange’s allocation of countywide ad
18 valorem property tax revenues which are not subject to Section
19 6503.1 of the Government Code.

20 (B) The county equity amount for the prior year.

21 (c) For the 2021–22 fiscal year and each fiscal year thereafter,
22 ad valorem property tax revenue allocations made pursuant to
23 Sections 96.1 and 96.5, or any successor to either of those
24 provisions, shall not incorporate the allocation adjustments made
25 by this section.

26 SEC. 2. The Legislature finds and declares that a special statute
27 is necessary and that a general statute cannot be made applicable
28 within the meaning of Section 16 of Article IV of the California
29 Constitution because of the unique inequities experienced from
30 fiscal year to fiscal year by the County of Orange that, of all the
31 counties in the state, was allocated the lowest percentage of
32 countywide ad valorem property tax revenues as determined by
33 the State Board of Equalization for the 2021—22 fiscal year.

34 SEC. 3. If the Commission on State Mandates determines that
35 this act contains costs mandated by the state, reimbursement to
36 local agencies and school districts for those costs shall be made
37 pursuant to Part 7 (commencing with Section 17500) of Division
38 4 of Title 2 of the Government Code.

O



Sharon Quirk-Silva
ASSEMBLYWOMAN, DISTRICT 67



AB 2579: PROPERTY TAX INEQUITY

FACT SHEET

SUMMARY

[AB 2579](#) provides Orange County with property tax revenues equivalent to the property tax revenues of other counties in the state. This bill increases Orange County's share of ad valorem property taxes over time to a maximum of 12% by shifting property taxes from the Educational Revenue Augmentation Fund (ERAF) to the County.

BACKGROUND

Orange County currently receives the lowest percentage of property tax of any county in California, about five cents on the dollar. This discrepancy occurs because the formula for distributing local property taxes has not changed since the allocation system, commonly referred to as AB 8, was first implemented in 1979. Compared to the 17% average received by the 15 largest counties in California, Orange County receives 12% less.

Following the implementation of Proposition 13 in 1978, which capped the ad valorem property tax rate on real property at 1%, the Legislature restructured the allocation of property tax revenues. AB 8, as previously mentioned, gave counties their historic proportional shares of property taxes based on what they were spending before Prop 13 passed; this proportional share of property tax remains in current law.

Since the passage of the historic property tax measures, the allocation of property tax revenues has not correlated with local government responsibilities. In addition, these funding inequities for counties was exacerbated by the ERAF property tax shifts of 1992 and 1993.

Since the property tax allocation was locked in, Orange County's population has nearly doubled, and service needs have drastically increased in the wake

of the COVID-19 pandemic. Despite contributing more, Orange County receives disproportionately less compared to other counties, leaving them at a disadvantage in meeting the needs of their vulnerable populations. The Citizen's Guide to the Fiscal Year 2023-24 for the County of Orange notes that property taxes are the largest and most important source of General Purpose Revenue (GPR) to the County. As of March 2023, property taxes accounted for almost 95% of all GPR. Unfortunately, Orange County receives the lowest property tax revenue allocation share (5%) of all 58 Counties in the state.¹

This structural inequity places county residents at a disadvantage, particularly those who rely on the county for critical services. If the county received a fair share of property tax that correlated with local government service responsibilities, it could allocate more resources toward homeless services, crisis treatment, public safety, and addressing the needs of at-risk youth, veterans, and senior citizens.

SOLUTION

AB 2579 provides a gradual solution to Orange County's property tax inequity incrementally increasing the county's share of property tax revenues until it reaches 12 percent. This increase is implemented selectively during years when assessed property value grows by more than 3 percent in order to phase in this bill. Once the county's share achieves this proportion, it remains fixed at 12 percent.

SUPPORT

County of Orange

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¹ https://issuu.com/ocgov/docs/2023-24_citizensguidetobudget_-_final

Introduced by Senator DurazoFebruary 16, 2024

An act to add Section 2004 to the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1325, as introduced, Durazo. Public contracts: best value procurement: equipment.

Existing law imposes requirements on, and authorizes procedures for, public contracting for equipment and services, among other things, by local and state agencies. Existing law authorizes certain procurements to be facilitated through a lowest responsible bidder requirement.

This bill would authorize a state or local agency, as defined, to award contracts through a best value procurement method, as describe, for the purchase of equipment with a base value of \$250,000 or more. The bill would require the agency to adopt and publish procedures and guidelines for evaluating the qualifications of the bidders to ensure the best value selections are conducted in a fair and impartial manner, as described. The bill would authorize the procedures and guidelines to include the adoption of a high road jobs plan policy that evaluates bidders' high road jobs plan commitments as part of the overall score for the public contract, as specified.

This bill would require the solicitation document to include certain information and would direct the agency to use a scoring method based on price and the factors described in the solicitation document, as specified. The bill would require the agency to let any contract for these projects to the selected bidder that represents the best value or reject all bids.

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. Section 2004 is added to the Public Contract
2 Code, to read:

3 2004. (a) Notwithstanding any law requiring a state or local
4 agency to award contracts to the lowest responsible bidder, a state
5 or local agency may use the best value procurement method for
6 the purchase of equipment with a base value of two hundred fifty
7 thousand dollars (\$250,000) or more, in accordance the following:

8 (1) To use the procurement method described in this subdivision,
9 the state or local agency shall adopt and publish procedures and
10 guidelines for evaluating the qualifications of bidders that ensure
11 the best value selections are conducted in a fair and impartial
12 manner. These procedures and guidelines may include, but are not
13 limited to, the adoption of a high road jobs plan policy.

14 (2) In addition to disclosure of the minimum requirements for
15 qualification, the solicitation document shall specify what criteria,
16 in addition to price, shall be given a weighted value. The state or
17 local agency shall use a scoring method based on those factors and
18 price in determining the successful bid. Any evaluation and scoring
19 method shall ensure substantial weight is given to the contract
20 price.

21 (3) The state or local agency shall let any contract for a project
22 pursuant to this section to the selected bidder that represents the
23 best value or shall reject all bids.

24 (b) For purposes of this section, the following definitions apply:

25 (1) "Best value procurement" means a process by which a
26 contract award is determined by objective criteria related to price,
27 quality, and other qualifications, including, but not limited to, the
28 following:

29 (A) Product performance, productivity, and safety standards.

30 (B) The supplier's ability to perform the contract requirements.

31 (C) Environmental benefits, including the reduction of
32 greenhouse gas emissions.

33 (D) Community benefits, including the bidder's participation
34 in or commitments to a community benefits agreement, targeted
35 hiring program, or high road training program.

1 (E) Job quality benefits, as determined by a high road jobs plan
2 policy.

3 (2) “Community benefits agreement” means a legally binding
4 contract between a private entity and a partner entity that details
5 specific, measurable, and enforceable commitments to a specified
6 community. The partner entity shall be a public entity, nonprofit,
7 or labor organization whose purpose aligns with the purported goal
8 of the community benefits agreement.

9 (3) “High road jobs plan” means a component of an application
10 submitted by applicants for public contracts where bidders are
11 required to state, at a minimum, all of the following:

12 (A) The minimum number of full-time equivalent jobs that will
13 be retained and created if awarded the contract.

14 (B) The minimum wage and benefit amounts by job
15 classification for nonsupervisory workers on the contract.

16 (C) The minimum number of jobs that will be specifically
17 retained and created for individuals facing barriers to employment
18 if awarded the contract.

19 (D) Detailed information regarding any targeted hiring programs,
20 community benefits agreements, high road training programs, or
21 registered apprenticeship programs.

22 (E) A statement that all workers are properly classified pursuant
23 to Section 2775 of the Labor Code and an acknowledgment that
24 knowingly submitting false information is a violation of Article 9
25 (commencing with Section 12650) of Chapter 6 of Part 2 of
26 Division 3 of Title 2 of the Government Code.

27 (4) “High road jobs plan policy” means a policy by which a
28 state or local agency evaluates bidders’ high road jobs plan
29 commitments as part of the overall score for the public contract,
30 and incorporates these commitments into the selected applicant’s
31 final contract as a material term.

32 (5) “High road training program” means a program that provides
33 comprehensive, equitable, and standardized training to a diverse
34 set of participants, including, but not limited to, the following:

35 (A) A program that includes a standardized curriculum resulting
36 in an industry-recognized credential, that includes measurable
37 goals, regular reporting, and accountability standards to assess
38 program effectiveness.

39 (B) Wages and stipends for program participants, including
40 assistance with tuition, supplies, and materials.

1 (C) Pay increases tied to new skills gained and trainings
2 completed.

3 (D) Formalized agreements with a public entity, nonprofit, or
4 labor organization to support the training program, whose purpose
5 aligns with the program’s goals.

6 (6) “Local agency” means a city, whether general law or
7 chartered, county, or city and county, school district, or other
8 district. For purposes of this paragraph, “district” means an agency
9 of the state formed for the local performance of governmental or
10 proprietary functions within limited boundaries.

11 (7) “State agency” means any department, division, board,
12 bureau, commission, or agency of the executive branch of
13 government in the state.

14 (8) “Targeted hiring program” means a program that meets all
15 of the following conditions:

16 (A) Meaningful outreach and recruitment activities and
17 measurable hiring goals specifically targeted to individuals facing
18 barriers to employment or displaced workers.

19 (B) Hiring practices developed to provide fair access to and
20 support the hiring of individuals facing barriers to employment.

21 (C) Collaboration with community groups or public entities to
22 directly support skill and career development for individuals facing
23 barriers to employment, as well as provide wraparound services
24 as needed by particular communities, such as transportation
25 assistance or childcare vouchers.



SENATOR
MARIA ELENA DURAZO
LEGISLATIVE FACTSHEET

Best Value Procurement

Senate Bill 1325

Summary

SB 1325 maximizes the benefits of public investments by empowering agencies to use best value procurement for public purchases. Best value procurement is a comprehensive policy framework that empowers government entities to consider important factors, such as community and environmental benefits, when determining successful bidders. This procurement model has successfully created good jobs and strengthened communities in California.

Background

Best value procurement differs from other procurement models, such as the commonly used "Lowest Responsible Bidder" framework, by allowing factors like environmental and community benefits—in addition to price—to be evaluated and scored within the bid process. By adopting best value procurement, local and state agencies can amplify the impact of public dollars to create good jobs and advance racial, gender, and climate equity.

This type of procurement has a successful track record: LA Metro's Manufacturing Careers Policy (a best value procurement policy) has created good jobs for workers and communities. Metro utilized an earlier version of the MCP to award an electric bus contract to BYD, creating hundreds of high-quality jobs at their Lancaster, California facility.

Problem

With California set to receive tens of billions of dollars from the federal government in the coming years, we have a once-in-a-generation opportunity to use these funds not just to build out our critical infrastructure needs, but also to raise job standards across the state.

Without policy interventions—like best value procurement—that incentivize companies to raise standards, many of the jobs created by federal funding within critical industries like clean technology manufacturing will lead Californians to poverty wages.

The current system of awarding public contracts to the lowest responsible bidder inherently rewards bad actors. When contractors are selected based on price and quality alone, they are incentivized to cut labor costs to offer more competitive bids. Allowing this to continue would be a major missed opportunity to entrench high quality job creation into the way our state does business.

State and local agencies face a confusing patchwork of best value procurement authorization within state code. Some agencies have explicit permission to utilize best value procurement while others do not, and some have authorization but only under specific circumstances. This ad hoc contracting authority, which is often done in very different sections of state code, makes it difficult for agencies to understand if they have authority to adopt best value procurement models.

Solution

The first step to incorporate high quality job standards is to ensure that agencies have the clear guidance they need to amplify the impact of state and federal investments.

Most local agencies and school districts are currently bound to a singular type of purchasing or are unclear on if they are authorized to choose between methods.

SB 1325 creates authorizing statutes for Best Value Procurement to empower cities, states, and public agencies to use our public dollars to create quality products and good jobs while advancing racial, gender, and climate equity.

Support

Jobs to Move America

Contact

Bethany Renfree, Legislative Director

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Orange County Fire Authority March 2024 Report

Congress

Congress Close to Finalizing FY 2024 Appropriations

As February came to a close, Congress avoided yet another potential partial government shutdown by passing its fourth Continuing Resolution (CR), H.R. 7463, to extend the “laddered” funding deadlines currently in place. Under this legislation, the first funding deadline was extended from March 1st to March 8th, and the second funding deadline was extended from March 8th to March 22nd. The first funding deadline extends funding for 6 of the 12 appropriations bills: Transportation-HUD, Energy-Water, Agriculture, Commerce-Justice-Science, Interior-Environment and Military Construction-VA.

While Congress struggled with finalizing a topline spending number, setting individual allocations for each bill and negotiating numerous policy provisions, the end is in sight for these six bills as they have now been finalized.

On March 3, 2024, the Appropriations Committee unveiled the text of the six-bill fiscal year FY 2024 "[minibus](#)" that is slated to be considered by the House and Senate this week and to President Biden’s desk before midnight on March 8. The House passed this minibus package on Wednesday, March 6 by a vote of 339-85.

Of note, this first minibus continues the additional pay authority for federal firefighting workforce, protects its current staffing levels. It also fully funds essential wildfire preparedness and suppression efforts by providing \$4.045 billion for wildfire suppression, of which \$2.65 billion is provided to the Wildfire Suppression Operations Reserve Fund. The Reserve Fund provides the Forest Service and the Department of the Interior an assured amount of funding to be used when major fire activity requires expenditures exceeding regular base suppression operations funding. This funding level—in addition to carryover balances—will meet projected needs for fiscal year 2024 wildfires.

The remaining six appropriations bills do face additional hurdles given unresolved issues over border policy, and foreign aid funding to name a few. This second minibus will fund several of the programs that benefit OCFA – including funding for Assistance to Firefighter Grants (AFG), SAFER Grants and the Urban Search & Rescue program. These programs are funded through the Homeland Security Appropriations bill. There is an also effort to reauthorize AFG & SAFER grants programs in the minibus as they are set to expire in just a few months.

Given the end is in sight for FY 2024, Congress is slowly beginning its FY 2025 appropriations process. We expect the pace for FY25 requests will speed up greatly once the first six bills are passed.

House Committees Hold Hearings on EV Fires & First Responder Risks

- During the month of February, two Congressional Committees held hearings to examine the dangers posed by lithium-ion batteries.
- On February 15, the House Homeland Security Subcommittee on Emergency Management and Technology held a [hearing](#) on the fire hazards posed by lithium-ion batteries. U.S. Fire Administrator Lori Moore-Merrell and John S. Butler, President of the International Association of Fire Chiefs (IAFC), testified.
- On February 29, the House Science, Space, & Technology Committee's Subcommittee on Investigations & Oversight held a [hearing](#) examining the dangers of EV Fires on First Responders. San Bernadino County Fire Chief Dan Munsey testified on behalf of the IAFC, and Dr. Judy Jeevarajan, Vice President and Executive Director of the Electrochemical Safety Research Institute at UL Research Institutes, also testified. During the hearing, Subcommittee Chair Jay Obernolte (R-CA) asserted that the federal government has been deficient in providing guidance and resources to firefighters and first responders in dealing with battery fires.

House Passes Firefighter Cancer Registry Reauthorization Act of 2023

- During the week of March 4, the House voted and passed the Firefighter Cancer Registry Reauthorization Act of 2023 ([H.R. 3821](#)). The bill authorizes the National Firefighter Cancer Registry to receive \$5.5 million annually from FY 2024 – 2028.
- The National Firefighter Cancer Registry was created to better track firefighters' cancer diagnoses and understand the connection between cancer and firefighter duties. The International Association of Fire Chiefs and the International Association of Fire Fighters both support the measure.
- The bill had bipartisan support in the House, and its Senate companion ([S. 2119](#)) has support from Democrats and Republicans as well.

Administration

FEMA Releases SAFER Notice of Funding Opportunity

- On March 4, the Federal Emergency Management Agency (FEMA) released two notices of funding opportunities for the FY 2023 Fire Prevention and Safety Grants and Staffing for Adequate Fire and Emergency Response (SAFER) Grants. Both grants close on April 12, 2024.
- The [SAFER Program](#) will allocate \$360 million to assist fire departments with hiring activities, including recruiting and retaining volunteer firefighters. This year's round of SAFER funding does not include a cost match.

- [Fire Prevention and Safety Grants](#) will distribute \$36 million for fire prevention programs and firefighter health and safety research. The five project categories under the fire prevention and safety activities are:
 - Community Risk Reduction;
 - Wildfire Risk Reduction;
 - Code Enforcement/Awareness;
 - Fire & Arson Investigation; and
 - National/State/Regional Programs and Projects

EPA Finalizes Amendments to Risk Management Program to Protect At-Risk Communities from Chemical Accidents

- On March 1, EPA announced finalized amendments to its Risk Management Program to include even more protective safety provisions to protect local communities from chemical accidents. This final rule, known as the Safer Communities by Chemical Accident Prevention Rule, includes improvements to chemical process safety to assist in planning, preparation, and response to accidents.
- The rule also includes provisions for increasing public awareness of chemical hazards at regulated sources. The rule also requires regulated facilities to perform safer technologies and alternative analyses and implement reliable safeguard measures as appropriate [here](#).