NOTICE AND CALL OF A SPECIAL MEETING OF THE ORANGE COUNTY FIRE AUTHORITY'S LEGISLATIVE AND PUBLIC AFFAIRS COMMITTEE

A Special Meeting has been scheduled for
Wednesday, April 30, 2025 at 12 noon

The meeting will be held at:
Orange County Fire Authority
Regional Fire Operations and Training Center
1 Fire Authority Road, Classroom 1
Irvine, CA 92602

The business to be transacted at the meeting
and opportunity for members of the public to address the Committee Members
regarding any item of business is described on the Agenda.

Donald Wagner, /ss/
Chair

ORANGE COUNTY FIRE AUTHORITY
AGENDA

Legislative and Public Affairs Committee
Special Meeting

Wednesday, April 30, 2025
12:00 p.m.

Orange County Fire Authority
Regional Fire Operations & Training Center
One Fire Authority Road, Classroom 1
Irvine, CA 92602

Committee Members
Donald Wagner, Chair • Janet Nguyen, Vice Chair
Phil Bacerra • David Burke • Kelly Jennings • Victor Cabral • Chi Charlie Nguyen

NOTICE REGARDING
PUBLIC ACCESS AND PARTICIPATION

This meeting is open to the public. Committee members will participate in person. There are several alternative ways to make comments including:

In Person Comments at Meeting: Resolution No. 97-024 established rules of decorum for public meetings held by the Orange County Fire Authority. Resolution No. 97-024 is available from the Clerk of the Authority.

Any member of the public may address the Committee on items within their subject matter jurisdiction, but which are not listed on this agenda during PUBLIC COMMENTS. However, no action may be taken on matters that are not part of the posted agenda. We request comments made on the agenda be made at the time the item is considered and that comments be limited to three minutes per person. Please address your comments to the Committee and do not engage in dialogue with individual Board Members, Authority staff, or members of the audience.

If you wish to speak, please complete a Speaker Form identifying which item(s) you wish to address. Please return the completed form to the Clerk of the Authority prior to item being considered. Speaker Forms are available at the entryway of meeting location.

E-Comments: Alternatively, you may email your written comments to coa@ocfa.org. E-comments will be provided to the Committee members upon receipt and will be part of the meeting record as long as they are received during or before the Committee takes action on an item. Emails related to an item that are received after the item has been acted upon by the Committee will not be considered.

This Agenda contains a brief general description of each item to be considered. Except as otherwise provided by law, no action or discussion shall be taken on any item not appearing on the following Agenda. Unless legally privileged, all supporting documents, including staff reports, and any writings or documents provided to a majority of the Committee members after the posting of this agenda are available for review at the Orange County Fire Authority Regional Fire Operations & Training Center, 1 Fire Authority Road, Irvine, CA 92602 or you may contact the Clerk of the Authority at (714) 573-6040 Monday through Thursday, and every other Friday from 8 a.m. to 5 p.m. and available online at http://www.ocfa.org

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, you should contact the Clerk of the Authority at (714) 573-6040 and identify the need and the requested modification or accommodation. Please notify us as soon as is feasible, however 48 hours prior to the meeting is appreciated to enable the Authority to make reasonable arrangements to assure accessibility to the meeting.

CALL TO ORDER by Chair Wagner

PLEDGE OF ALLEGIANCE by Director Janet Nguyen

ROLL CALL by Assistant Clerk of the Authority

PUBLIC COMMENTS

Please refer to instructions on how to submit a public comment on Page 1 of this Agenda.

1. PRESENTATION
No items.

2. CONSENT CALENDAR

A. Minutes for the Legislative & Public Affairs Committee Meeting
Submitted by: Maria D. Huizar, Clerk of the Authority

The record will reflect that any Director not in attendance at the meeting of the Minutes will be registered as an abstention, unless otherwise indicated.

Recommended Action:
Approve the Minutes for the March 19, 2025, Regular Meeting as submitted.

3. DISCUSSION CALENDAR

A. Legislative Report
Submitted by: Robert C. Cortez, Assistant Chief/Business Services Department and Kristy Khachigian, Interim Legislative Affairs Program Manager

Recommended Action:
Review the proposed Legislative Report and direct staff to place the item on the agenda for the Executive Committee meeting of May 22, 2025, with the Legislative and Public Affairs Committee recommendation to receive and file the Legislative Report and adopt the recommended bill positions in alignment with the Board-adopted Legislative Platform.

COMMITTEE MEMBER COMMENTS

ADJOURNMENT – The next regular meeting of the Legislative and Public Affairs Committee is scheduled for Wednesday, July 16, 2025, at 12:00 p.m.

AFFIDAVIT OF POSTING

I hereby certify under penalty of perjury and as required by the State of California, Government Code § 54956, that the foregoing Agenda was posted in the lobby and front gate public display case of the Orange County Fire Authority, Regional Fire Operations and Training Center, 1 Fire Authority Road, Irvine, CA, not less than 24 hours prior to the meeting.

Maria D. Huizar, CMC
Clerk of the Authority

FUTURE AGENDA ITEMS – THREE-MONTH OUTLOOK:

- Legislative Quarterly Update
- Public Affairs Quarterly Update

MINUTES
ORANGE COUNTY FIRE AUTHORITY

Legislative and Public Affairs Committee
Regular Meeting
Wednesday, March 19, 2025
12:00 Noon

Regional Fire Operations and Training Center
Classroom One
1 Fire Authority Road
Irvine, CA 92602

CALL TO ORDER
A regular meeting of the Legislative and Public Affairs Committee was called to order on Wednesday, March 19, 2025, at 12:00 p.m. by Board Chair Bacerra.

PLEDGE OF ALLEGIANCE
Director Burke led the assembly in the Pledge of Allegiance.

ROLL CALL

Present: Phil Bacerra, Santa Ana
Janet Nguyen, County of Orange
David Burke, Cypress
Kelly Jennings, Laguna Niguel
Donald P. Wagner, County of Orange
Victor Cabral, San Clemente
Chi Charlie Nguyen, Westminster

Absent: None.

Also present were:
Assistant Chief Robert C. Cortez
Assistant Chief Stephanie Holloman
Communications Director Matt Olson
Assistant General Counsel Michael Daudt
Clerk of the Authority Maria D. Huizar

OCFA Board Chair Bacerra presided over the meeting, absent a Chair and Vice Chair of the Committee.

PUBLIC COMMENTS
None.

AGENDA ITEMS TAKEN OUT OF ORDER – DISCUSSION CALENDAR

B. Election of Committee Chair and Vice Chair (FILE 12.02E1)

Board Chair Bacerra introduced the election process for Committee Chair and Vice Chair for 2025. He proceeded to open the nominations for Chair.

Board Chair Bacerra nominated Director Wagner; seconded by Director Janet Nguyen. There were no other nominations. Director Wagner accepted the nomination.

By a unanimous vote (7-0) Director Wagner was elected Chair for the ensuing year.

Chair Wagner opened the nominations for Vice Chair, and nominated Director Janet Nguyen; seconded by Director Bacerra. There were no other nominations. Director Nguyen accepted the nomination.

By unanimous vote (7-0) Director Janet Nguyen was elected to Vice Chair for the ensuing year.

A. Legislative Quarterly Update –(FILE 12.02E5)

Assistant Chief Cortez presented the update and introduced State Lobbyist John Moffatt and Geoff Neill of Nielsen Merksamer Parrinello Gross & Leoni, LLP and Senior Policy Advisor Lisa Barkovic of Holland and Knight who provided updates on legislative policies and initiatives for both State and Federal, respectively.

On motion of Director Charlie Nguyen and second by Director Bacerra, approved 7-0 to review the proposed Legislative Report and direct staff to place the item on the agenda for the Executive Committee meeting of March 27, 2025, with the Legislative and Public Affairs Committee recommendation to receive and file the Legislative Report and adopt the recommended bill positions for AB270 and AB275 in alignment with the Board-adopted Legislative Platform, incorporating the following amendments to AB275:

- Ensure that OCFA is included as part of the working group, as the Director of Emergency Services is required to appoint members with expertise in Southern California Edison's Quick Reaction Force Program.
- Establish a deadline for when the working group reporting will take place and to identify which legislative body, committee or agency will receive the report.

1. PRESENTATIONS
None.

2. CONSENT CALENDAR

On motion of Director Bacerra and second by Director Jennings, approved 7-0 Agenda Item Nos. 2A-2B.

A. Minutes for the Legislative & Public Affairs Committee Meeting (FILE 12.02E2)

The record will reflect that any Director not in attendance at the meeting of the Minutes will be registered as an abstention, unless otherwise indicated.

Action: Approve the Minutes for the January 15, 2025, Regular Meeting as submitted.

B. Quarterly Public Affairs Update (FILE 12.02E5)

Action: Receive and file the report.

3. DISCUSSION CALENDAR – AGENDA ITEMS TAKEN OUT OF ORDER

REPORTS
None.

COMMITTEE MEMBER COMMENTS

Director Janet Nguyen commented elected Committee Chair Wagner managed the meeting well.

ADJOURNMENT – Chair Wagner adjourned the meeting at 12:39 p.m. The next regular meeting of the Legislative and Public Affairs Committee is scheduled for Wednesday, July 16, 2025, at 12:00 p.m.

Maria D. Huizar, CMC
Clerk of the Authority

Orange County Fire Authority

AGENDA STAFF REPORT

Legislative and Public Affairs Committee | **Agenda Item No. 3A**
April 30, 2025 | **Discussion Calendar**

Legislative Report

Contact(s) for Further Information

Robert C. Cortez, Assistant Chief
Business Services Department robertcortez@ocfa.org 714.573.6012

Kristy Khachigian
Interim Legislative Affairs Program Manager kristykhachigian@ocfa.org 714.573.6048

Summary

This item is submitted to inform the committee of legislation that staff have identified for tracking with proposed bill positions in alignment with the Board-adopted Legislative Platform.

Prior Board/Committee Action(s)

At its March 19, 2025, Legislative and Public Affairs meeting, the Committee reviewed the proposed agenda item and directed staff to place the item on the Executive Committee agenda. The Committee's action approved the Legislative Report and bill positions for AB270 and AB275 with amendments by a vote of 7-0.

At its March 27, 2025, Executive Committee meeting, the Committee approved the Legislative Report and bill positions for AB270 and AB275 with amendments by a vote of 6-0 (Director Patel absent).

RECOMMENDED ACTION(S)

Review the proposed Legislative Report and direct staff to place the item on the agenda for the Executive Committee meeting of May 22, 2025, with the Legislative and Public Affairs Committee recommendation to receive and file the Legislative Report and adopt the recommended bill positions in alignment with the Board-adopted Legislative Platform.

Impact to Cities/County

Not appliable.

Fiscal Impact

Not appliable.

Background

The attached Legislative Report provides an update on 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 proposed bill positions based on Executive Management and State lobbyist review. Staff and our lobbyists will provide an oral report and solicit input and direction as needed from the Committee.

Regarding the 2025 State bill matrix with proposed bill positions (Attachment 1), a recommended position of "support" or "oppose" may result in a letter to the author once adopted. 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 committee for further discussion and direction.

Attachment(s)

1. 2025 State Bill Matrix with Proposed Bill Positions
2. Fact Sheets
3. Federal Lobbyist Report

OCFA 2025 State Bill Matrix

(as of 4/24/25)

The OCFA identified 80 bills for review since the state bill introduction deadline of February 21, 2025. Following is a list of bills identified by staff for official positions and bills we are monitoring due to their subject matter, therefore bringing awareness to the committee.

Category	Bill	Author	Title	Summary	Position
CRR	AB 841	Patel	State Fire Marshal: personal protective equipment: battery fires.	Requires the State Fire Marshal to develop a working group to make recommendations regarding personal protective equipment to limit exposure used in responding to lithium-ion battery fires, and to review technology to clean personal protective equipment and current decontamination practices at the fire scene.	Support
CRR	SB 283	Laird	Energy storage systems.	Requires the CA Building Standards Commission and State Fire Marshal to review and consider the most recently published edition of the National Fire Protection Association (NFPA) 855, Standard for the Installation of Stationary Energy Storage Systems, for incorporation into the next update of the California Building Standards Code adopted after July 1, 2026.	Monitor
CRR	SB 269	Choi	Personal income taxes: Fire Safe Home Tax Credits Act.	Allows income tax credits to a taxpayer for qualified costs related to home hardening, and costs relating to qualified vegetation management, not to exceed an aggregate amount of $500,000,000 per taxable year.	Support
Business Services	AB 624	Dixon	OES: Federal grant funding; Community Relief Act.	Requires the OES to provide to local operational areas and urban areas the maximum local share of federal grant funding administered from the Emergency Management Performance Grant Program. It also requires OES to provided copies of agreements with local governments for spending the state share of federal grant funding.	Support
HR	AB 340	Ahrens	Employer-employee relations: confidential communications.	Prohibits a public employer from questioning a public employee, or a representative of a recognized employee, 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.	Oppose

HR	AB 465	Zhur	Local public employees: memoranda of understanding.	Requires a memorandum of understanding between a public agency and a recognized employee organization to include provisions providing for a system of progressive discipline that grants due process to an employee when they are disciplined, upon the request of the recognized employee organization.	Oppose
HR	AB 1109	Kalra	Evidentiary privileges: union agent-represented worker privilege.	Establishes a privilege between a union agent and a represented employee or former employee to refuse to disclose any confidential communication made while the union agent was acting in a representative capacity. Permits a represented employee or former employee to prevent another person from disclosing privileged communication, to be waived in accordance with existing law and criminal proceedings.	Oppose
HR	AB 1371	Sharp-Collins	Occupational safety and health: employee refusal to perform hazardous tasks.	Revises OSHA provisions to allow an employee to refuse to perform a task assigned by an employer if it would violate prescribed safety standards or if the employee has a reasonable apprehension the task would result in injury or illness. The employee's refusal would be contingent on the employee having communicated with the employer on the safety or health risk and the employer having failed to provide a reasonable response to allay concerns.	Oppose
Ops/Other	AB 270	Petrie-Norris	Department of Forestry and Fire Protection: autonomous firefighting pilot project.	Requires the Department of Forestry and Fire Protection to establish a pilot project to equip the state with the nation's first testbed firefighting helicopter equipped with autonomous aerial suppression technology, and the associated configuration, familiarization and training activities to transition the aircraft into operational use.	Support *(per L&PAC action on 3/19/25 followed by 3/27/25 EC approval)*
Ops/Other	AB 275	Petrie-Norris	Office of Emergency Services: wildfire response: SoCal Edison-funded helitanker program.	Requires the Office of Emergency Services to establish a working group to study the feasibility of making the SoCal Edison-funded Quick Reaction Force firefighting helitanker program permanent. Requires OES to appoint members to the working group who are knowledgeable about the program.	Support with Amendments *(per L&PAC action on 3/19/25 followed by 3/27/25 EC approval)*

Ops/Other	AB 470	McKinnor	Telephone corporations: carriers of last resort.	The bill would require telephone corporations to fulfill specified conditions and meet certain notice requirements to be relieved of the carrier of last resort obligations. Requires that customers must have access to at least one alternative service that is comparable in price to traditional service. It provides additional protections by establishing a challenge process that requires a company to continue providing basic exchange service to a customer if there is not a comparatively priced alternative voice service available to the customer.	Oppose
Ops/Other	AB 614	Lee	Claims against public entities.	Removes the provisions requiring a claim against a public entity relating to a cause of action for death or for injury to person, personal property or growing crops to be presented not later than six months after accrual of the cause of action and instead require a claim relating to any cause of action to be presented not later than one year after accrual of the cause of action, unless otherwise specified by law.	Oppose
Corporate Com.	AB 1005	Davies	Drowning prevention: public schools: informational materials: swim lesson vouchers and swim lesson directory.	Expressly authorizes a public school to provide informational materials related to drowning. Drowning or Injury Prevention (DIP) organizations must correspond only with a school administrator and provide written evidence to the administrator that demonstrates that the information materials provided align with drowning prevention, water safety, rescue and swim skills lesson information found on the Centers for Disease Control and Prevention website.	Support
Ops/Other	SB 345	Hurtado	California Fire Service Training and Education Program: California Fire and Arson Training Act: Fees	This bill would authorize the State Fire Marshal to establish and collect admission fees and other fees associated with the California Fire Service Training and Education Program, and to establish the fees to implement the California Fire and Arson Training Act, only to the extent that state appropriations and other funding sources are insufficient to cover the necessary costs of the activities eligible to be paid from those fees.	Support
Business Services	SB 696	Alvarado-Gil	Sales and Use Tax Law: exceptions: firefighting equipment.	Exempts from state sales taxes the gross receipts from the sale in this state of, and the storage, use, or other consumption in this state of, firefighting apparatus, equipment, or specialized vehicles purchased for use by a fire department, including an all-volunteer fire department, or a fire district.	Monitor

Ops/Other	SB 90	Seyarto	Safe Drinking Water, Wildfire Prevention, Drought Preparedness, and Clean Air Bond Act of 2024: grants: improvements to public evacuation routes: mobile rigid water storage: electrical generators.	Includes in the list of eligible projects grants to local agencies, state agencies, joint powers authorities, tribes, resource conservation districts, fire safe councils, and nonprofit organizations for structure hardening of critical community infrastructure, wildfire smoke mitigation, evacuation centers, including community clean air centers, structure hardening projects that reduce the risk of wildfire for entire neighborhoods and communities, water delivery system improvements for fire suppression purposes for communities in very high or high fire hazard areas, wildfire buffers, and incentives to remove structures that significantly increase hazard risk for improvements to public evacuation routes, mobile rigid dip tanks and improvements to the response and effectiveness of fire engines and helicopters.	Support
HR/Other	AB 569	Stefani	California Public Employees' Pension Reform Act of 2013: exceptions: supplemental defined benefit plans.	This bill amends the California Public Employees' Pension Reform Act of 2013 (PEPRA) to authorize a public employer to bargain over contributions for supplemental retirement benefits to the administered by, or on behalf of, an exclusive bargaining representative of one or more of the public employers bargaining units.	Oppose
HR/Other	AB 1383	McKinnor	Public employees' retirement benefits.	This bill would require a retirement system to adjust pensionable compensation limits to be consistent with a defined benefit limitation established and annually adjusted under federal law with respect to tax exempt qualified trusts. The bill would authorize a public employer and a recognized employee organization to negotiate a prospective increase to the retirement benefit formulas for members and new members. By increasing the contribution to continuously appropriated funds, this bill would make an appropriation.	Oppose

CALIFORNIA STATE ASSEMBLY

Dr. Darshana Patel

ASSEMBLYMEMBER, DISTRICT 76

Fact Sheet

PROPOSED BILL

AB 841 addresses the increasing exposure to toxic chemicals that firefighters face during lithium-ion battery fires. This bill directs the Office of the State Fire Marshal, in consultation with Cal-OSHA, to create a working group to recommend improved personal protective equipment (PPE) and decontamination procedures to keep firefighters safe and healthy.

BACKGROUND

California's ambitious green energy goals have led to a rapid proliferation of lithium-ion batteries, placing the state second only to China in terms of the amount of utility-scale battery storage facilities and electric vehicle adoption. The state is also a leader in the number of commercial and residential lithium-ion battery storage systems to accompany the state's vast solar supply.

Alongside the increase in batteries, there has been an increase in battery fires. In 2021, a battery storage facility fire occurred in Orange County. In 2024, another fire broke out in Otay Mesa, lasting 11 days. In January 2025, the world's largest facility in Moss Landing caught fire and also burned for 11 days. Just 10 days later, several electric vehicles caught fire in a structure fire in Long Beach.

PROBLEM

California firefighters increasingly face lithium-ion battery fires, yet protective gear and decontamination protocols have not kept pace with this evolving threat. Lithium-ion battery fires expose firefighters to toxic metals and semi-volatile organic compounds, which existing cleaning and denominational processes do not effectively remove.

These deficiencies leave firefighters continuously and increasingly exposed to serious health risks, as demonstrated by a 2021 incident in Orange County, where a firefighter sustained irreversible injuries fighting a battery storage facility fire and was forced into early retirement.

To safeguard firefighters' health amid the rapid expansion of lithium-ion battery use, California urgently needs updated PPE and more effective decontamination procedures.

SOLUTION

AB 841 convenes a working group to systematically review and provide recommendations by September 1, 2026 on ways to limit firefighter exposure to the toxic substances present during lithium-ion battery fires. The group will evaluate technologies for cleaning PPE after exposure, determine if different types of PPEs are required for varying scales of lithium-ion battery fires, and assess current decontamination practices to effectively reduce health risks.

FOR MORE INFORMATION

Contact: Eli Lanet, Legislative Aide
Phone: (916) 319-3217
Email: Eli.Lanet@asm.ca.gov

SUPPORT

California Professional Firefighters (Sponsor)

OPPOSITION

None

AMENDED IN ASSEMBLY MARCH 24, 2025

CALIFORNIA LEGISLATURE—2025–26 REGULAR SESSION

ASSEMBLY BILL No. 841

Introduced by Assembly Member Patel

February 19, 2025

An act ~~relating to business.~~ *to add Section 13105.1 to the Health and Safety Code, relating to the State Fire Marshal.*

LEGISLATIVE COUNSEL'S DIGEST

AB 841, as amended, Patel. ~~Business:~~ *State Fire Marshal: personal protective equipment:* battery ~~storage.~~ *fires.*

Existing law authorizes the State Fire Marshal to make changes as may be necessary to standardize all existing fire protective equipment throughout the state.

This bill would require the State Fire Marshal, in consultation with the Division of Occupational Safety and Health, to develop a working group with specified membership to make recommendations regarding personal protective equipment used in responding to lithium-ion battery fires. The bill would require, at a minimum, the working group to review, and for the purpose of making the recommendations to consider, the latest personal protective equipment to limit exposure to lithium and other heavy metals, technology to clean personal protective equipment, whether different types of personal protective equipment should be used for different types of lithium-ion battery fires, and current decontamination practices at the fire scene, as specified. The bill would require the recommendations to be submitted to the Legislature on or before September 1, 2026.

~~Existing law generally regulates the conduct of private businesses, including by providing for licensing by cities, counties, and the state, and by preserving and regulating competition.~~

~~This bill would declare the intent of the Legislature to enact legislation relating to battery storage requirements for private businesses.~~

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

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Cancer is the leading cause of death among firefighters in the United States. California's firefighters are exposed to many known and suspected human carcinogens in the line of duty.

(b) Recent studies from the National Institute for Occupational Safety and Health confirm an increased risk of cancer in firefighters, including a 14-percent higher risk of dying from cancer than the general United States population, a twofold increase in both the incidence and mortality of firefighters diagnosed with mesothelioma, and a tenfold increase in the incidents of bladder cancer among women in the fire service.

(c) In June 2022, the International Agency for Research on Cancer classified occupational exposure from being a firefighter as a Group 1 known human carcinogen.

(d) In recent years, fires involving lithium-ion batteries have caused increased exposures to lithium and other heavy metals for firefighters.

(e) In 2021, a fire captain in the County of Orange experienced renal failure after responding to a fire at a lithium-ion battery storage facility, ultimately requiring the firefighter to enter a disability retirement.

(f) In 2024, a truck carrying lithium-ion batteries overturned in the Port of Los Angeles causing a closure of several terminals for more than 24 hours.

(g) In 2024, a fire at a battery energy storage facility in Otay Mesa burned for nearly two weeks.

(h) The complexity and intensity of fires involving lithium-ion batteries require focused attention, including efforts to ensure

firefighters have the appropriate personal protective equipment and protocols to reduce exposures and minimize health risks.

SEC. 2. Section 13105.1 is added to the Health and Safety Code, to read:

13105.1. (a) The State Fire Marshal shall develop, in consultation with the Division of Occupational Safety and Health, a working group to make recommendations regarding personal protective equipment used in responding to lithium-ion battery fires.

(b) The working group shall include members of the State Board of Fire Services, academia, and health and safety experts, as determined by the State Fire Marshal.

(c) The working group shall review, and for the purpose of making recommendations shall consider, at a minimum, all of the following:

(1) The latest personal protective equipment to limit exposure to lithium and other heavy metals when responding to fires where lithium-ion batteries are present.

(2) Technology to clean personal protective equipment after response to a lithium-ion battery fire.

(3) Whether different types of personal protective equipment should be used for different types of lithium-ion battery fires, including large scale battery energy storage facilities, home-based battery energy storage facilities, and electric vehicles that have lithium-ion batteries.

(4) Current decontamination practices at the fire scene to reduce exposures and potential negative health consequences.

(d) The recommendations developed pursuant to subdivision (a) shall be delivered to the Legislature no later than September 1, 2026.

(e) (1) The requirement for submitting a report imposed under subdivision (d) is inoperative on January 1, 2030, pursuant to Section 10231.5 of the Government Code.

(2) A report to be submitted pursuant to subdivision (d) shall be submitted in compliance with Section 9795 of the Government Code.

~~SECTION 1. It is the intent of the Legislature to enact legislation relating to battery storage requirements for private businesses.~~

O

Date of Hearing: April 7, 2025

ASSEMBLY COMMITTEE ON EMERGENCY MANAGEMENT
Rhodesia Ransom, Chair
AB 841 (Patel) – As Amended March 24, 2025

SUBJECT: State Fire Marshal: personal protective equipment: battery fires

SUMMARY: Requires the State Fire Marshal to develop, in consultation with the Division of Occupational Safety and Health, a working group to make recommendations regarding personal protective equipment used in responding to lithium-ion battery fires, as specified. Specifically, **this bill**:

1) Requires the State Fire Marshal to develop, in consultation with the Division of Occupational Safety and Health, a working group to make recommendations regarding personal protective equipment used in responding to lithium-ion battery fires.

2) Requires the working group to include members of the State Board of Fire Services, academia, and health and safety experts, as determined by the State Fire Marshal.

3) Requires the working group to review, and for the purpose of making recommendations shall consider, at a minimum, all of the following:
   (a) The latest personal protective equipment to limit exposure to lithium and other heavy metals when responding to fires where lithium-ion batteries are present;
   (b) Technology to clean personal protective equipment after responding to a lithium-ion battery fire;
   (c) Whether different types of personal protective equipment should be used for different types of lithium-ion battery fires, including large scale battery energy storage facilities, home-based battery energy storage facilities, and electric vehicles that have lithium-ion batteries; and
   (d) Current decontamination practices at the fire scene to reduce exposures and potential negative health consequences.

4) Requires the working group recommendations be delivered to the Legislature no later than September 1, 2026.

5) Sunsets the requirement for submitting a report to the Legislature on January 1, 2030.

6) Makes legislative findings and declarations related to the prevalence of cancer among firefighters, fires involving lithium-ion batteries in California, and the complexity and intensity of lithium-ion battery fires.

EXISTING LAW:

1) Establishes the State Fire Marshal (SFM), within the Department of Forestry and Fire Protection (Cal FIRE), to foster, promote and develop ways and means of protecting life and property against fire and panic. (Health and Safety Code Sections 13100-13100.1)

2) Grants the CPUC with regulatory authority over public utilities, including electrical corporations. (Public Utilities Code Section 701)

3) Authorizes the CPUC, after a hearing, to require every public utility to construct, maintain, and operate its line, plant, system, equipment, apparatus, tracks, and premises in a manner so as to promote and safeguard the health and safety of its employees, passengers, customers, and the public. (Public Utilities Code Section 768)

4) Requires the CPUC, as part of the Public Utilities Act, to implement and enforce standards for the maintenance and operation of facilities for the generation and storage of electricity owned by an electrical corporation or located in the state to ensure their reliable operation. (Public Utilities Code Section 761.3)

5) Requires an application to the California Energy Commission for the operation of an energy facility to include, amongst other things, safety & reliability information about the facility for emergency operations. (Public Resources Code 25520)

6) Requires the California Energy Commission (CEC) to undertake various actions to support the state's clean energy and pollution reduction goals, including implementing the Long-Duration Energy Storage Program by providing financial incentives for projects to deploy innovative energy storage systems to the electrical grid for purposes of providing critical capacity and grid services. (Public Resources Code Section 25640)

7) Authorizes the California Occupational Safety and Health Standards (Cal/OSHA) Board within the Department of Industrial Relations (DIR) to establish by an affirmative vote of at least four members (from a total of seven), to adopt, amend or repeal occupational safety and health standards and orders. Requires Cal/OSHA to adopt standards that are as effective as the federal standards, as specified. Also establishes that Cal/OSHA is the only agency in the state authorized to adopt occupational safety and health standards. (Labor Code Section 142.3)

8) Requires every employer to furnish employment and a place of employment that is safe and healthful for the employees, including requiring an injury prevention plan. (Labor Code Section 6401)

FISCAL EFFECT: Unknown. This bill has not been analyzed by a fiscal committee.

COMMENTS:

Purpose of the bill: According the author, "Our state has made great strides toward utilizing electricity and batteries over fossil fuels. As such, lithium-ion battery storage systems have proliferated and California has the most amount of utility-scale battery storage facilities and electric cars, second only to China. While positive in many ways, this battery expansion has also come with unintended consequences, as the recent fire in Moss Landing—among others—demonstrated. Our firefighters are there to fight the fire to the best of their ability and keep our communities safe from further spread. But their current Personal Protective Equipment (PPE) and decontamination procedures have not been updated with this new form of fire that is becoming more common. As a result, they are exposed to toxic metals and semi-volatile organic compounds, exposing them to cancer and other serious health risks. To safeguard firefighters'

health amid the rapid expansion of lithium-ion battery use, California urgently needs updated PPE and more effective decontamination procedures."

Equity Impact: According to the author's staff, "Firefighters face many threats of danger while protecting property and lives. It is the state's duty to mitigate the harms they face, where feasible, and the expansion of dangers present in lithium-ion battery fires that PPEs either cannot sufficiently protect against or have cleaned off is a danger that firefighters should not have to grapple with."

Background

Firefighting remains one of the Nation's most hazardous professions: According the Administrator of the United States Fire Administration, 'Fire is a public health and safety problem of great proportions, and firefighting remains one of the Nation's most hazardous professions. On average there are more than 1.2 million structure fires, nearly 3,000 deaths, thousands of injuries, and scores of individuals displaced annually from fires. Although disasters such as fires can affect everyone, fires can also exacerbate pre-existing challenges in underserved communities across the country. These impacts are further compounded by poor implementation and enforcement of national building codes and fire risks associated with technology that make fires more common, more intense, and more destructive. These challenges pose heightened risks to the public and to first responders who safeguard our communities, and the challenge continues to evolve. For example, emerging technologies like Lithium-ion (Li-ion) powered devices and harmful chemicals including polyfluoroalkyl substances (PFAS) introduce new and continued risks to our communities and firefighters."

Lithium-ion Batteries: Lithium-ion batteries are comprised of an anode, cathode, separator, electrolyte, and two current collectors (positive and negative). The anode and the cathode store the lithium. The electrolyte carries positively charged lithium ions from the anode to the cathode and vice versa through the separator. The movement of the lithium ions creates free electrons in the anode, which creates a charge at the positive current collector. The electrical current then flows from the current collector through a device being powered (cellphone, computer, etc.) to the negative current collector. The separator blocks the flow of electrons inside the battery.

Compared to other high-quality rechargeable battery technologies (nickel-cadmium, nickel-metal-hydride, or lead-acid), lithium batteries have a number of advantages. They have one of the highest energy densities of any commercial battery technology, approaching 300 watt-hours per kilogram (Wh/kg) compared to roughly 75 Wh/kg for alternative technologies. High energy densities and long lifespans have made lithium-ion batteries the market leader in portable electronic devices and electrified transportation, including electric vehicles and jets.

Risk of Thermal Runaway: One of the primary risks related to lithium-ion batteries is thermal runaway. Thermal runaway is a phenomenon in which the lithium-ion cell enters an uncontrollable, self-heating state. Thermal runaway can result in extremely high temperatures, violent cell venting, smoke, and fire. Faults in a lithium-ion cell can result in a thermal runaway, and these faults can be caused by internal failure or external conditions. Lithium-ion battery fires and explosions are triggered by the thermal runaway reactions inside the cell and, when stored near or next to another battery or batteries, can set off a chain reaction, making an already tough fire to fight even worse. When they reach thermal runaway, lithium-ion battery fires can burn

for hours or even days, until all the flammable chemicals in the battery have been consumed by the combustion reaction.

One such example occurred in Rancho Cordova in June of 2022, when a Tesla Model S, which had been badly damaged in a collision was sitting in a wrecking yard and suddenly erupted in flames. When firefighters arrived the car was engulfed, according to the Sacramento Metropolitan Fire District, "[e]very time the blaze was momentarily extinguished, the car's battery compartment reignited." Eventually, the firefighters used a tractor to create a pit in the dirt, were able to get the car inside, and then filled the hole with water. That allowed the firefighters to suffocate the battery pack and ultimately extinguish the fire, which burned hotter than 3,000 degrees and took more than an hour and 4,500 gallons of water to extinguish.

Lithium-ion batteries and PFAS: Lithium-ion batteries are used globally as a key component of clean and sustainable energy infrastructure, and emerging Lithoum-ion battery technologies have incorporated a class of per- and polyfluoroalkyl substances (PFAS) known as bis-perfluoroalkyl sulfonimides (bis-FASIs). PFAS are recognized internationally as recalcitrant contaminants, a subset of which are known to be mobile and toxic, but little is known about environmental impacts of bis-FASIs released during Lithium-ion battery manufacture, use, and disposal.

Growth of Battery Storage in California and Projected Need: Over the past several years, the deployment of battery storage systems has grown significantly in California, growing from 500 megawatts (MW) in 2019 to over 13,300 MW statewide in 2024. According to the CPUC, "Battery storage systems are one of the key technologies California relies on to enhance reliability and reduce dependency on polluting fossil fuel plants. Battery storage systems soak up clean energy in the daytime when the sun is shining, store that electricity, and then export it to the grid in the evening hours when the sun is down. In 2024, California made historic progress in clean energy deployment. The state brought more than 7,000 MW online—the largest amount in a single year in California's history. This includes over 4,000 MW of new battery storage. California's current installed battery storage capacity is over 20 percent of California's peak demand. The state's projected need for battery storage capacity is estimated at 52,000 MW by 2045."

The Vistra Fire Incident at Moss Landing Power Plant: On January 16, 2025, a fire started at the Vistra Battery Energy Storage Facility and soon engulfed the Phase 1 battery energy storage building on the grounds of the Moss Landing Power Plant. The massive fire and thermal runaway event burned for days, destroyed tens of thousands of lithium-ion batteries, and resulted in shelter-in place and evacuation orders. Prior to the Vistra Fire, there had been three safety incidents at separately owned battery energy storage facilities located at the Moss Landing Power Plant, which occupies one of the largest battery energy storage systems.

SB 1383 (Huseo) and CPUC's General Order 167: Given California's growing reliance on lithium-ion battery storage systems and recent safety issues at one of the state's largest lithium-ion battery storage facilities, SB 1383 (Hueso, Chapter 725, Statutes of 2022) expanded the CPUC Generating Asset Owner (GAO) operation and maintenance standards, contained in General Order (GO) 167-B to oversight of energy storage systems, not just electric generation facilities, including systems owned by third-parties.

On March 15, 2025, the California Public Utilities Commission modified General Order 167, which provides a method to implement and enforce maintenance and operation standards for electric generating facilities, in order to add new safety standards for the maintenance and

operation of battery energy storage systems, as required by SB 1383. The CPUC also made explicit that battery storage facility owners must develop emergency response and emergency action plans, as required by SB 38. In addition, the CPUC made other technical updates to the standards to improve safety, reliability, and effectiveness of operation and maintenance activities, such as establishing technical logbook standards for battery storage systems, and expanding requirements for emergency plans that relate to all electric generating facilities.

Arguments in support: The California Professional Firefighters write, "There has been a recent spate of incidents involving lithium-ion batteries and energy storage systems (ESS). These incidents have been increasing in frequency and severity and have resulted in widespread community impacts, severe toxic exposures, and the injuries of our members as they respond to try and mitigate the damage. It is necessary to take a critical look at the standards surrounding firefighter health and safety issues when responding to these fires. The dangers of lithium-ion battery fires cannot be understated, both to the safety personnel responding to them as well as to the surrounding communities."

Related legislation: AB 303 (Addis) Prohibit the authorization of a development project that includes a battery energy storage system capable of storing 200 megawatthours or more of energy if the development project is located within 3,200 feet of a sensitive receptor or is located on an environmentally sensitive site, as specified. (Pending in the Assembly Committee on Utilities and Energy)

AB 434 (DeMaio) Prohibits, until January 1, 2028, a public agency from authorizing the construction of a battery energy storage facility, as defined and requires the State Fire Marshal to adopt guidelines and minimum standards for the construction of a battery energy storage facility to prevent fires and protect nearby communities from any fire hazard posed by the facility, as specified. (Pending in the Assembly Committee on Utilities and Energy)

AB 588 (Patel) Requires the State Fire Marshal to convene a lithium battery working group to identify those safety issues associated with lithium batteries and associated charging infrastructure, as specified. (Pending in the Assembly Committee on Emergency Management)

AB 615 (Davies) Requires applications filed with the State Energy Resources Conservation and Development Commission for certification of a site and related facility which includes an electric transmission line or thermal power plant, or both, to contain an emergency response and action plan that incorporates impacts to the surrounding areas, as specified. (Set to be heard in the Assembly Committee on Emergency Management on April 7, 2025)

AB 696 (Ransom) of this Session. Requires the California Environmental Protection Agency to convene a Lithium-Ion Car battery Advisory Group to review and advice the Legislature on policies on handling and disposing of lithium-ion vehicle batteries. (Pending in the Assembly Committee on Appropriations)

AB 1285 (Committee on Emergency Management) Requires the State Fire Marshal, in consultation with the Office of Emergency Services, to develop fire prevention, response, and recovery measures for utility grade lithium-ion battery storage facilities, as specified. (Set to be heard in the Assembly Committee on Emergency Management on April 7, 2025)

SB 283 (Laird) Require the CPUC and the Office of the State Fire Marshal to review and consider the most recently published edition of the National Fire Protection Association (NFPA) 855, Standard for the Installation of Stationary Energy Storage Systems, for incorporation into the next update of the California Building Standards Code adopted after July 1, 2026. (Pending in Senate Energy, Utilities and Communications Committee)

Prior legislation: SB 38 (Laird, Chapter 377, Statutes of 2023) required each battery energy storage facility in the state and subject to regulation by the California Public Utilities Commission to have an emergency response and emergency action plan that covers the premise of the battery energy storage facility.

SB 1383 (Hueso, Chapter 725, Statutes of 2022) expanded the CPUC's safety oversight of electric generating facilities to encompass energy storage facilities.

AB 2514 (Skinner, Chapter 469, Statutes of 2010) required the CPUC to determine appropriate targets for load serving entities to procure energy storage systems.

REGISTERED SUPPORT / OPPOSITION:

Support

California Professional Firefighters

Opposition

None on file.

Analysis Prepared by: Mike Dayton / E.M. / (916) 319-3802

AB 841: State Fire Marshal: personal protective equipment: battery fires.

Date	Result	Location	Ayes	Noes	Abstain/Absent	Motion
4/7/2025	P	ASM. EMERGENCY MANAGEMENT	7	0	0	Do pass and be re-referred to the Committee on [Labor and Employment] (PASS)

AYES: Arambula, Joaquin Bains, Jasmeet Kaur Bennett, Steve Calderon, Lisa DeMaio, Carl Hadwick, Heather Ransom, Rhodesia
NOES:
ABSTAIN/ABSENT:

SENATOR JOHN LAIRD

SB 283

Clean Energy Safety Act of 2025

SUMMARY

Senate Bill 283 provides a crucial tool and safeguard to ensure battery storage facilities are built and maintained with the highest level of safety and oversight by our local fire officials.

BACKGROUND

A disastrous fire broke out in January 2025 at the Moss Landing battery storage facility. The emergency prompted evacuations when a fire burned for several days, later reignited, and raised serious concerns within the community about toxic smoke, heavy metals, and ash.

Under existing law, battery energy storage systems (BESS) can be permitted locally or through the California Energy Commission's AB 205 Opt-In Certification Program. Although industry recognized safety standards have come a long way since Moss Landing's BESS development, there still lacks consistent state guidance on the permitting and development of BESS.

The state made recent strides to enhance BESS oversight and local coordination through SB 38 (Laird, Chapter 377, Statutes of 2023) which required local emergency plans, and SB 1383 (Hueso, Chapter 725, Statutes of 2022) which expanded the California Public Utilities Commission's (CPUC) enforcement over BESS. CPUC modified General Order 167 in March 2025 to implement and enforce maintenance and operation standards, including the enforcement of SB 38 (Laird, 2023) and add new safety standards for the operation of BESS. CPUC is actively inventorying BESS facilities to prioritize inspection and audits of all existing BESS facilities under CPUC oversight.

California established a landmark policy to use 100% renewable energy by 2045. Solar and wind power are key to meeting this goal, however grid reliability relies on BESS which stores energy for use when the sun is down and the wind is not blowing. There are several major energy goals in California – move away from fossil fuels to a greener electrical grid, have safe and renewable energy sources, maintain affordability, and keep the lights on. The development of safe BESS is crucial to meeting these goals.

THIS BILL

Senate Bill 283 strengthens statewide safety standards for battery storage energy systems (BESS) and ensures there is local fire authority consultation and inspection at various stages prior to a project going online.

SB 283 requires battery storage facilities to adhere to the National Fire Protection Association (NFPA) 855 standards, which are widely recognized as the strongest standards for safety and hazard mitigation of BESS. Prior to submitting a BESS application through the local approval process or the California Energy Commission's AB 205 Opt-In Certification Program, developers are required to engage and confer with local fire authorities. This consultation must address facility design, assess potential risks, and integrate emergency response plans, such as those required under SB 38 (Laird, 2023).

A facility will be also required to undergo a safety inspection by local fire officials, or by the State Fire Marshal if the local jurisdiction defers its authority, before the facility can go online. SB 283 ensures that the facility owner covers the cost of inspections, reinforcing accountability in the permitting process. SB 283 will be amended to limit BESS development in combustible buildings as the bill progresses.

SB 283 enables the safe development of BESS to protect California emergency responders, workers, and the community.

SPONSORS

California Professional Firefighters
International Brotherhood of Electrical Workers

Staff Contact: Tammy.Trinh@sen.ca.gov – Updated as of 03.18.2025

AMENDED IN SENATE APRIL 9, 2025

AMENDED IN SENATE MARCH 20, 2025

SENATE BILL No. 283

Introduced by Senator Laird

February 5, 2025

An act to add Section 18944.22 to the Health and Safety Code, to add Sections 25545.15 and 25545.16 to the Public Resources Code, and to add Chapter 10 (commencing with Section 8500) to Division 4.1 of the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 283, as amended, Laird. Energy storage systems.

Existing law, the California Building Standards Law, establishes the California Building Standards Commission (commission) within the ~~Department of General Services~~ *Government Operations Agency* and sets forth its powers and duties, including approval and adoption of building standards and codification of those standards into the California Building Standards Code. Existing law requires the State Fire Marshal, before the next triennial edition of the California Building Standards Code adopted after January 1, 2025, to propose to the commission updates to the fire standards relating to requirements for lithium-based battery systems, as provided.

This bill would require the commission and the Office of the State Fire Marshal to review and consider the most recently published edition of the National Fire Protection Association (NFPA) 855, Standard for the Installation of Stationary Energy Storage Systems, for incorporation into the next update of the California Building Standards Code adopted after July 1, 2026.

Existing law authorizes a person proposing an eligible facility, including an energy storage system that is capable of storing 200 megawatthours or more of energy, to file with the State Energy Resources Conservation and Development Commission (Energy Commission) an application for certification for the site and related facility, as provided. Existing law provides that the certification issued by the Energy Commission is in lieu of any permit, certificate, or similar document required by a state, local, or regional agency for the use of the site and related facility.

Existing law vests the Public Utilities Commission (PUC) with regulatory authority over public utilities, including electrical corporations. Existing law requires the PUC to direct the state's 3 largest electrical corporations to file applications for programs and investments to accelerate widespread deployment of distributed energy storage systems for specified purposes and authorizes the PUC to approve, or modify and approve, programs and investments of an electrical corporation in distributed energy storage systems with appropriate energy storage management systems, as defined.

This bill would require an application submitted to the Energy Commission in accordance with the above-described provisions relating to certification of facilities by the Energy Commission, and an application submitted to a local jurisdiction for an energy storage management system, to include the applicant's certification that the facility has been designed in accordance with the *most recently published edition of the* NFPA 855, Standard for the Installation of Stationary Energy Storage Systems, and, at least 30 days before submitting an application, the applicant met and conferred with the local fire department responsible for fire suppression in the area where the facility or system is proposed, as provided. The bill would also prohibit the approval of those applications unless the local jurisdiction requires as a condition of approval that the system be constructed, installed, commissioned, operated, maintained, and decommissioned in accordance with *the most recently published edition of the* NFPA 855, that after installation is complete, but before commencing operations, the system be inspected by the local fire department responsible for fire suppression or by a representative or designee of the State Fire Marshal, and that the applicant bear the cost of the inspection. *The bill would authorize a state or local entity to approve the construction of an energy storage management system with over 600 kilowatthours of storage capacity only if it is located in a noncombustible, dedicated-use building or is*

a remote outdoor installation, as provided. By imposing additional duties on local officers, the bill would impose a state-mandated local program.

The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

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

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

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

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

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

SECTION 1. This act shall be known, and may be cited, as the Clean Energy Safety Act of 2025.

~~SECTION 1.~~

SEC. 2. Section 18944.22 is added to the Health and Safety Code, to read:

18944.22. The commission and the Office of the State Fire Marshal shall review and consider the most recently published edition of the National Fire Protection Association (NFPA) 855, Standard for the Installation of Stationary Energy Storage Systems, for incorporation into the next update of the code adopted after July 1, 2026.

~~SEC. 2.~~

SEC. 3. Section 25545.15 is added to the Public Resources Code, to read:

25545.15. In an application for an energy storage system, as described in paragraph (2) of subdivision (b) of Section 25545, submitted in accordance with this chapter, the applicant shall certify both of the following:

(a) The ~~facility~~ *energy storage system* has been designed in accordance with the *most recently published edition of the* National

Fire Protection Association (NFPA) 855, Standard for the Installation of Stationary Energy Storage ~~Systems. The applicable edition of NFPA 855 shall be the 2023 edition, unless a later edition is incorporated into the California Building Standards Code pursuant to Section 18944.22 of the Health and Safety Code or designated by the commission as applicable to this chapter. If~~ *Systems, unless the mostly recently published edition was published less than one year before the date of the application, in which case the energy storage system shall be designed in accordance with the California Building Standards Code (Title 24 of the California Code of Regulations).*

(b) If there is a conflict between a provision of NFPA 855 and a provision of the California Building Standards Code (Title 24 of the California Code of Regulations) or any other regulation adopted by a state agency, the more protective provision shall apply.

~~(b)~~

(c) At least 30 days before submitting an application, the applicant met and conferred with the local fire department responsible for fire suppression in the area where the ~~facility~~ *energy storage system* is proposed and discussed the ~~facility~~ *energy storage system* design, sought input on mitigating potential fire and life safety concerns, and sought input on the content of emergency response plans.

~~SEC. 3.~~

SEC. 4. Section 25545.16 is added to the Public Resources Code, to read:

25545.16. The commission shall not certify an energy storage system, as described in paragraph (2) of subdivision (b) of Section 25545, pursuant to this chapter, unless both of the following requirements are satisfied:

(a) The ~~facility~~ *energy storage system* shall be constructed, installed, commissioned, operated, maintained, and decommissioned in accordance with the *most recently published edition of the* National Fire Protection Association (NFPA) 855, Standard for the Installation of Stationary Energy Storage ~~Systems. The applicable edition of NFPA 855 shall be the 2023 edition, unless a later edition is incorporated into the California Building Standards Code pursuant to Section 18944.22 of the Health and Safety Code or designated by the commission as applicable to this~~

~~chapter. If~~ *Systems, unless the most recently published edition was published less than one year before the date of the application, in which case the energy storage system shall be designed in accordance with the California Building Standards Code (Title 24 of the California Code of Regulations).*

(1) Notwithstanding paragraph (1), a manufacturer or energy storage system owner may voluntarily design the energy storage system in accordance with a more recent edition of NFPA 855 before its operative date, if compliance with all applicable listing and testing requirements is demonstrated.

(2) If there is a conflict between a provision of NFPA 855 and a provision of the California Building Standards Code (Title 24 of the California Code of Regulations) or any other regulation adopted by a state agency, the more protective provision shall apply.

(b) After installation is complete, but before commencing operations, the ~~facility~~ *energy storage system* shall be inspected by the local fire department responsible for fire suppression or by a representative or designee of the State Fire Marshal. The applicant shall bear the cost of the inspection.

~~SEC. 4.~~

SEC. 5. Chapter 10 (commencing with Section 8500) is added to Division 4.1 of the Public Utilities Code, to read:

Chapter 10. Energy Storage Management Systems

8500. For purposes of this chapter, both of the following definitions apply:

(a) "Energy storage management system" has the same meaning as defined in Section 2838.2.

(b) "NFPA 855" means the National Fire Protection Association (NFPA) 855, Standard for the Installation of Stationary Energy Storage Systems. The applicable edition of NFPA 855 shall be the 2023 edition, unless a later edition is incorporated into the California Building Standards Code pursuant to Section 18944.22 of the Health and Safety Code or designated by the commission as applicable to this chapter. If there is a conflict between a provision of NFPA 855 and a provision of the California Building Standards Code (Title 24 of the California Code of Regulations)

or any other regulation adopted by a state agency, the more protective provision shall apply.

8501. An application submitted to a local jurisdiction for an energy storage management system shall include the applicant's certification of both of the following:

(a) *(1)* The energy storage management system has been designed in accordance with the NFPA ~~855.~~ *855, unless the most recently published edition was published less than one year before the date of the application, in which case the energy storage management system shall be designed in accordance with the California Building Standards Code (Title 24 of the California Code of Regulations).*

(2) Notwithstanding paragraph (1), a manufacturer or energy storage management system owner may voluntarily design an energy storage management system in accordance with a more recent edition of NFPA 855 before its operative date, if compliance with all applicable listing and testing requirements is demonstrated.

(b) At least 30 days before submitting an application, the applicant met and conferred with the local fire department responsible for fire suppression in the area where the energy storage management system is proposed and discussed the energy storage management system design, sought input on mitigating potential fire and life safety concerns, and sought input on the content of emergency response plans.

8502. A local jurisdiction shall not approve an energy storage management system, unless the local jurisdiction requires both of the following as a condition of approval:

(a) *(1)* The energy storage management system shall be constructed, installed, commissioned, operated, maintained, and decommissioned in accordance with the NFPA ~~855.~~ *855, unless the most recently published edition was published less than one year before the date of the application, in which case the energy storage management system shall be designed in accordance with the California Building Standards Code (Title 24 of the California Code of Regulations).*

(2) Notwithstanding paragraph (1), a manufacturer or energy storage management system owner may voluntarily design an energy storage management system in accordance with a more recent edition of NFPA 855 before its operative date, if compliance

with all applicable listing and testing requirements is demonstrated.

(b) After installation is complete, but before commencing operations, the energy storage management system shall be inspected by the local fire department responsible for fire suppression or by a representative or designee of the State Fire Marshal. The applicant shall bear the cost of the inspection.

8503. (a) For purposes of this section, all of the following definitions apply:

(1) "Dedicated-use building" has the same meaning as defined in Chapter 12 (commencing with Section 1201) of Part 9 of the California Building Standards Code (Title 24 of the California Code of Regulations).

(2) "Noncombustible building" means a building that meets the Type I building requirements set forth in Part 11 (commencing with Section 101) of the California Building Standards Code (Title 24 of the California Code of Regulations).

(3) "Remote outdoor installation" has the same meaning as defined in Chapter 12 (commencing with Section 1201) of Part 9 of the California Building Standards Code (Title 24 of the California Code of Regulations).

(b) A state or local entity may only approve the construction of an energy storage management system with over 600 kilowatthours of storage capacity if it is located in a noncombustible, dedicated-use building or is a remote outdoor installation.

~~SEC. 5.~~

SEC. 6. The Legislature finds and declares that Sections ~~1~~ *2* to ~~4,~~ *5*, inclusive, of this act adding Section 18944.22 to the Health and Safety Code, adding Sections 25545.15 and 25545.16 to the Public Resources Code, and adding Chapter 10 (commencing with Section 8500) to Division 4.1 of the Public Utilities Code address a matter of statewide concern rather than a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Sections ~~1~~ *2* to ~~4,~~ *5*, inclusive, of this act apply to all cities, including charter cities.

~~SEC. 6.~~

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or

level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

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

O

SENATOR STEVEN CHOI

REPRESENTING DISTRICT 37

SB 269: Tax Credit for Home Hardening and/or Vegetation Management

SUMMARY:

SB 269 would provide a tax credit to homeowners who perform qualified home hardening and/or vegetation management on their properties.

BACKGROUND:

With California experiencing increasingly destructive fires year over year, homeowners continue to be at the forefront of the fire threat and risk reduction. Some estimates put the cost of the total economic losses of the recent California fires at up to $250 Billion. The cost to rebuild homes, businesses and livelihoods are disproportionately borne by low to moderate income homeowners who face greater difficulty in financing their reconstruction.

At the same time as fires are causing irreparable damage, California's insurance market is in freefall as insurers cancel policies, hike premiums, or leave the market altogether, which puts an even higher burden on residents.

The Federal Emergency Management Agency estimates that for every $1 spent on fire hardening measures to bring buildings up to current codes, $4 are saved—including countless lives, billions of dollars in property damage, and hundreds of millions of avoided insurance costs. In California, the return on investment can approach $6 for each dollar invested in mitigation.

SOLUTION:

SB 269 would help homeowners reduce the risk of their properties being damaged in fires by offering a tax credit to homeowners in moderate, high, and very high fire hazard severity zones for costs related to home hardening and vegetation management. Under this bill, property owners can qualify for home hardening credits up to $2500, $5000, or $10,000 respectively, and for vegetation management credits up to $1000.

This bill would provide some much needed support for those wishing to protect their homes from the danger of wildfires. The credits made available by this bill will help ease the financial burden of wildfire mitigation and it will incentivize proper forest management practices at the residential level.

FOR MORE INFORMATION

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AMENDED IN SENATE APRIL 9, 2025

SENATE BILL No. 269

Introduced by Senator Choi
(Principal coauthor: Senator Seyarto)
(Coauthors: Senators ~~Jones and Niello~~ *Jones, Niello, and Ochoa Bogh*)
(Coauthors: Assembly Members Alanis, Jeff Gonzalez, and Patterson)

February 3, 2025

An act to add and repeal Sections 17052.13 and 17052.14 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 269, as amended, Choi. Personal income taxes: Fire Safe Home Tax Credits Act.

The Personal Income Tax Law allows various credits against the tax imposed by that law. Existing law requires any bill authorizing a new tax credit to contain, among other things, specific goals, purposes, and objectives that the tax credit will achieve, detailed performance indicators, and data collection requirements.

This bill would allow credits against the tax imposed by the Personal Income Tax Law for each taxable year beginning on or after January 1, 2026, and before January 1, 2031, to a qualified taxpayer for qualified costs relating to qualified home hardening, as defined, and for qualified costs relating to qualified vegetation management, as defined, in specified amounts, not to exceed an aggregate amount of $500,000,000 per taxable year.

This bill would require a qualified taxpayer to reserve a credit for qualified costs relating to qualified home hardening or qualified

vegetation management to be eligible for the above-described credits and provide all necessary information for this purpose, as specified.

This bill also would include additional information required for any bill authorizing a new income tax credit and would require the Legislative Analyst's Office to prepare a written report regarding the credits, as provided.

This bill would take effect immediately as a tax levy.

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

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

SECTION 1. The credits allowed by Sections 17052.13 and 17052.14 of the Revenue and Taxation Code, as added by this act, shall be known and may be cited as the Fire Safe Home Tax Credits Act.

SEC. 2. Section 17052.13 is added to the Revenue and Taxation Code, to read:

17052.13. (a) (1) For each taxable year beginning on or after January 1, 2026, and before January 1, 2031, there shall be allowed a credit against the "net tax," as defined in Section 17039, to a qualified taxpayer who ~~incurs~~ *pays or incurs* qualified costs while performing qualified home hardening on a qualified property, in an amount determined pursuant to paragraph (2).

(2) Subject to the credit reservation requirements of subdivision (f), the credit amount shall be in an amount equal to:

(A) Fifty percent of qualified costs ~~incurred while performing qualified home hardening,~~ *paid or incurred,* not to exceed two thousand five hundred dollars ($2,500) of credit allowed, if the qualified property is located in a moderate fire hazard severity zone, per taxable year.

(B) Fifty percent of qualified costs ~~incurred while performing qualified home hardening,~~ *paid or incurred,* not to exceed five thousand dollars ($5,000) of credit allowed, if the qualified property is located in a high fire hazard severity zone, per taxable year.

(C) Fifty percent of qualified costs ~~incurred while performing qualified home hardening,~~ *paid or incurred,* not to exceed ten thousand dollars ($10,000) of credit allowed, if the qualified

property is located in a very high fire hazard severity zone, per taxable year.

~~(3) The aggregate amount of credit allowed per taxable year pursuant to this section and Section 17052.14 shall be the amount calculated pursuant to paragraph (1) of subdivision (f).~~

(b) For purposes of this section:

(1) "High fire hazard severity zone" means land classified by the State Fire Marshal pursuant to Section 4202 of the Public Resources Code as within a high fire hazard severity zone.

(2) "Moderate fire hazard severity zone" means land classified by the State Fire Marshal pursuant to Section 4202 of the Public Resources Code as within a moderate fire hazard severity zone.

(3) "Very high fire hazard severity zone" means either land classified by the State Fire Marshal pursuant to Section 4202 of the Public Resources Code as within a very high fire hazard severity zone or an area designated by the State Fire Marshal pursuant to Section 51178 of the Government Code that is not a state responsibility area.

(4) (A) "Qualified costs" means any ~~actual out-of-pocket~~ expense ~~incurred and paid~~ *paid or incurred* by the qualified taxpayer during the taxable year in which the credit allowed by this section is claimed, documented by receipt, for ~~performing~~ qualified home hardening.

(B) "Qualified costs" do not include either of the following:

(i) Costs of any inspection or certification fees, in-kind contributions, donations, or incentives.

(ii) Expenses ~~paid~~ *paid or incurred* by the qualified taxpayer from any grants awarded to the qualified taxpayer for ~~performing~~ qualified home hardening.

(5) (A) "Qualified home hardening" means the replacement or repair of structural features that are affixed to the qualified property and performed or implemented for the primary purpose of reducing risk to structures from wildland fire.

(B) For purposes of this paragraph, "structural features" includes any of the following structural features that meet the requirements of Chapter 7A of the California Building Code: roofs, exterior walls, vents, eave assemblies, decks, fences, driveways, and chimneys.

(6) "Qualified property" means a dwelling or housing unit that is located in a moderate fire hazard severity zone, high fire hazard

severity zone, or very high fire hazard severity zone for which a homeowners' exemption pursuant to Section 218 has been granted to the qualified taxpayer in the taxable year for which the credit allowed by this section is claimed.

(7) "Qualified taxpayer" means a taxpayer who satisfies both of the following requirements:

(A) Has an adjusted gross income for the taxable year in which the credit allowed by this section does not exceed one hundred forty thousand dollars ($140,000) in the case of spouses filing a joint return, heads of households, and surviving spouses, as defined in Section 17046, or seventy thousand dollars ($70,000) for a single individual or a ~~spouse~~ *married individual* filing separately.

(B) Owns a qualified property.

(c) In the case where the credit allowed under this section exceeds the "net tax," the excess credit may be carried over to reduce the "net tax" in the following taxable year, and succeeding eight taxable years, if necessary, or until the credit has been exhausted.

(d) (1) In the case of two taxpayers filing a joint return, only one credit may be claimed. In the case of two taxpayers who may ~~legally~~ file a joint return but file separate returns, only one of the taxpayers may claim the credit allowed by this section.

~~(2) A taxpayer shall not use the credit allowed by this section to be reimbursed for a lien, even if the lien was to pay for qualified costs for qualified home hardening for the qualified property.~~

~~(3)~~

(2) A qualified property shall only be eligible for one credit allowed by this section per taxable year.

(e) If the credit allowed by this section is claimed by the qualified taxpayer, any deduction or credit otherwise allowed under this part for any qualified expenditure made by the qualified taxpayer as a trade or business expense shall be reduced by the amount of the credit allowed by this section.

(f) (1) The total aggregate amount of the credit that may be allocated by credit reservations to all qualified taxpayers pursuant to this section and Section 17052.14 shall not exceed five hundred million dollars ($500,000,000) per taxable year plus the unused credit amount, if any, for the preceding taxable year.

(2) To be eligible for the credit allowed by this section and Section 17052.14, a qualified taxpayer shall request a credit

reservation from the Franchise Tax Board during the month of July for each taxable year or within 30 days of the start of their taxable year if the qualified taxpayer's taxable year begins after July, in the form and manner prescribed by the Franchise Tax Board.

(3) To obtain a credit reservation with respect to a qualified expenditure, the qualified taxpayer shall provide all necessary information, as determined by the Franchise Tax Board.

(4) The Franchise Tax Board shall approve tentative credit reservations with respect to qualified expenditures ~~incurred~~ *paid or incurred* during a taxable year for qualified taxpayers, subject to the cap established under paragraph (1).

(5) The Franchise Tax Board may prescribe rules, guidelines, or procedures necessary or appropriate to carry out the purposes of this section, including any guidelines regarding the allocation of the credit allowed under this section. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any rule, guideline, or procedure prescribed by the Franchise Tax Board pursuant to this section.

(g) For purposes of complying with Section 41 of the Revenue and Taxation Code, with respect to the Fire Safe Home Tax Credits Act, the Legislature finds and declares as follows:

(1) The specific goals, purposes, and objectives of the credits are as follows:

(A) To increase wildfire preparedness by providing a tax incentive to property owners that live in fire-prone parts of the state.

(B) To compensate taxpayers for costly mitigation measures that prepare their homes for wildfire season.

(2) To measure whether the Fire Safe Home Tax Credits meet these goals, purposes, and objectives, the Legislative Analyst's Office shall prepare a written report on the following:

(A) The number of taxpayers claiming either or both of the credits.

(B) The average credit amount claimed on tax returns.

(3) The Legislative Analyst's Office shall provide the written report required by paragraph (2) to the Senate Committee on Governance and Finance, the Assembly Committee on Revenue and Taxation, and the Assembly Committee on Local Government.

A report submitted pursuant to this paragraph shall be submitted in compliance with Section 9795 of the Government Code.

(h) This section shall remain in effect only until December 1, 2031, and as of that date is repealed.

SEC. 3. Section 17052.14 is added to the Revenue and Taxation Code, to read:

17052.14. (a) ~~(1)~~ For each taxable year beginning on or after January 1, 2026, and before January 1, 2031, there shall be allowed as a credit against the "net tax," as defined in Section 17039, to a qualified taxpayer in an amount equal to 50 percent of qualified costs ~~incurred~~ *paid or incurred* by the taxpayer, subject to the credit reservation requirements of subdivision (f) of Section 17052.13 and not to exceed one thousand dollars ($1,000) of credit allowed per taxable year, while performing qualified vegetation management on qualified property.

~~(2) The aggregate amount of credit allowed per taxable year pursuant to this section and Section 17052.13 shall be the amount calculated pursuant to paragraph (1) of subdivision (f) of Section 17052.13.~~

(b) For purposes of this section:

(1) "High fire hazard severity zone" means land classified by the State Fire Marshal pursuant to Section 4202 of the Public Resources Code as within a high fire hazard severity zone.

(2) "Moderate fire hazard severity zone" means land classified by the State Fire Marshal pursuant to Section 4202 of the Public Resources Code as within a moderate fire hazard severity zone.

(3) "Very high fire hazard severity zone" means either land classified by the State Fire Marshal pursuant to Section 4202 of the Public Resources Code as within a very high fire hazard severity zone or an area designated by the State Fire Marshal pursuant to Section 51178 of the Government Code that is not a state responsibility area.

(4) (A) "Qualified costs" means any ~~actual out-of-pocket~~ expense ~~incurred and paid~~ *paid or incurred* by the qualified taxpayer during the taxable year in which the credit allowed by this section is claimed, documented by receipt, for ~~performing~~ qualified vegetation management.

(B) "Qualified costs" do not include either of the following:

(i) Costs of any inspection or certification fees, in-kind contributions, donations, or incentives.

(ii) Expenses paid *or incurred* by the qualified taxpayer from any grants awarded to the qualified taxpayer for ~~performing~~ qualified vegetation management.

(5) "Qualified property" means a dwelling or housing unit that is located in a moderate fire hazard severity zone, high fire hazard severity zone, or very high fire hazard severity zone for which a homeowners' exemption pursuant to Section 218 has been granted to the qualified taxpayer in the taxable year for which the credit allowed by this section is claimed.

(6) "Qualified taxpayer" means a taxpayer who satisfies both of the following requirements:

(A) Has an adjusted gross income for the taxable year in which the credit allowed by this section does not exceed one hundred forty thousand dollars ($140,000) in the case of spouses filing a joint return, heads of households, and surviving spouses, as defined in Section 17046, or seventy thousand dollars ($70,000) for a single individual or a ~~spouse~~ *married individual* filing separately.

(B) Owns a qualified property.

(7) "Qualified vegetation management" means any of the following activities that meet the requirements of Section 4291 of the Public Resources Code performed by the qualified taxpayer for the primary purpose of reducing risk to structures from wildland fire:

(A) The creation of defensible space around structures.

(B) The establishment of fuel breaks.

(C) The thinning of woody vegetation.

(D) The secondary treatment of woody fuels by lopping and scattering, piling, chipping, removing from site, or prescribed burning.

(c) In the case where the credit allowed under this section exceeds the "net tax," the excess credit may be carried over to reduce the "net tax" in the following taxable year, and succeeding eight taxable years, if necessary, or until the credit has been exhausted.

(d) (1) In the case of two taxpayers filing a joint return, only one credit may be claimed. In the case of two taxpayers who may ~~legally~~ file a joint return but file separate returns, only one of the taxpayers may claim the credit allowed by this section.

~~(2) A taxpayer shall not use the credit allowed by this section to be reimbursed for a lien, even if the lien was to pay for qualified~~

~~costs for qualified vegetation management for the qualified property.~~

~~(3)~~

(2) A qualified property shall only be eligible for one credit allowed by this section per taxable year.

(e) If the credit allowed by this section is claimed by the qualified taxpayer, any deduction or credit otherwise allowed under this part for any qualified expenditure made by the qualified taxpayer as a trade or business expense shall be reduced by the amount of the credit allowed by this section.

(f) This section shall remain in effect only until December 1, 2031, and as of that date is repealed.

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the California Constitution and shall go into immediate effect.

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ASSEMBLYWOMAN
Diane Dixon
72ND DISTRICT

AB 624 – Community Relief Act

SUMMARY
AB 624 will establish a grant program to provide financial assistance to local agencies, community-based organizations and individuals for disaster-related costs.

EXISTING LAW
The California Emergency Services Act established the Office of Emergency Services (OES) within the office of the governor. OES has many areas of responsibility, including the duty to prevent, respond to and recover from natural, technological, or manmade disasters and emergencies.

BACKGROUND AND ISSUE
California has continually experienced devastating and destructive wildfires over the last decade. In fact, wildfires have been particularly devastating in recent years and appear to be getting worse. According to data from CalFire, fourteen of the twenty most destructive wildfires and thirteen of the twenty largest wildfires in California history have occurred in the last 10 years. Additionally, the state has experienced some of its most deadly wildfires in recent years, with nine of the twenty most deadly wildfires in California's history occurring in the past decade. For example, the Camp Fire in 2018 claimed 85 lives and the fires in Eaton and Palisades this year claiming a total of 29 lives.

A critical aspect of the state's continued responsibility to address the destruction wrought by wildfires is providing adequate resources and funding for communities to recover. Unfortunately, with insurance companies fleeing the state and families already struggling with inflation, oftentimes the road to recovery following a wildfire can be a traumatic and exceedingly difficult circumstance.

While OES has continued to deliver critical assistance to Californians in the midst of wildfires and during recovery efforts, it is crucial to provide more financial assistance to local agencies and individuals.

SOLUTION
The Community Relief Act is a common sense solution to ensure that our local agencies and organizations have the necessary funding and resources they require in order to recover from the devastating wildfires that face California annually. Local community organizations and agencies are at the forefront of wildfire relief efforts, providing shelter, safety updates, evacuation instructions and supplies to affected individuals.

Specifically, AB 623 would require that OES award local agencies the maximum local share of federal grant funding received from the Emergency management Performance Grant Program (EMPG). This bill would also establish Article 4.5, the Community Relief Act (CRA). The CRA would instruct the director of OES to provide financial assistance to fire victims from the Disaster Assistance Fund.

By maintaining oversight and local control, while also allocating desperately needed money for local agencies' recovery efforts, AB 624 will bolster California's wildfire preparedness while also supporting victims of devastating fires.

SUPPORT
None on File.

OPPOSITION
None on File.

CO-AUTHORS
None on File.

FOR MORE INFORMATION
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ASSEMBLY BILL No. 624

Introduced by Assembly Member Dixon

February 13, 2025

An act to add Section 8589.25 to, and add Article 4.5 (commencing with Section 8688) to Chapter 7.5 of Division 1 of Title 2 of, the Government Code, relating to emergency services, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 624, as introduced, Dixon. Office of Emergency Services: federal grant funding; Community Relief Act.

Existing law, the California Emergency Services Act, establishes the Office of Emergency Services (OES) within the office of the Governor, and sets forth its powers and duties relating to addressing natural, technological, or manmade disasters and emergencies, including responsibility for activities necessary to prevent, respond to, recover from, and mitigate the effects of emergencies and disasters to people and property.

This bill would require the 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 the Emergency Management Performance Grant Program. The bill would also require the OES, to the extent permitted by federal law, to provide specified legislative committees with copies of agreements entered into with local governments to spend the state share of federal grant funding administered by the office from specified federal grant programs, including the State Homeland Security Grant Program. The bill would

authorize the office to retain up to 3% of the above-described federal grant funding for administrative purposes.

Existing law, the California Disaster Assistance Act, requires the Director of Emergency Services to provide financial assistance to local agencies for their personnel costs, equipment costs, and the cost of supplies and materials used during disaster response activities, incurred as a result of a state of emergency proclaimed by the Governor, subject to specified criteria. The act continuously appropriates moneys in the Disaster Assistance Fund and its subsidiary account, the Earthquake Emergency Investigations Account, without regard to fiscal year, for purposes of the act.

This bill would enact the Community Relief Act to establish a grant program to provide financial assistance to local agencies, tribal governments, community-based organizations, and individuals for specified costs related to a disaster, as prescribed. The bill would require the director to allocate from the fund, subject to specified conditions, funds to meet the cost of expenses for those purposes. By authorizing increased expenditure of moneys from a continuously appropriated fund for a new purpose, the bill would make an appropriation.

This bill would authorize the director to adopt regulations, as determined to be necessary, to govern the administration of the program.

Vote: ⅔. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

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

SECTION 1. Section 8589.25 is added to the Government Code, to read:

8589.25. (a) The office, to the extent permitted by federal law, shall provide to local operational areas and urban areas the maximum local share of federal grant funding administered by the office from the Emergency Management Performance Grant Program.

(b) The office, to the extent permitted by federal law, shall provide the Senate Committee on Governmental Organization and the Assembly Committee on Emergency Management with copies of agreements entered into with local governments to spend the state share of federal grant funding administered by the office from the following sources:

(1) The State Homeland Security Grant Program.

(2) The Urban Areas Security Initiative Program.

(c) The office may retain up to 3 percent of the federal grant funding described in subdivisions (a) and (b) for administrative purposes.

SEC. 2. Article 4.5 (commencing with Section 8688) is added to Chapter 7.5 of Division 1 of Title 2 of the Government Code, to read:

Article 4.5. Community Relief Act

8688. This article shall be known and may be cited as the Community Relief Act.

8688.1. For purposes of this article:

(a) "Community-based organization" means a public or private nonprofit organization of demonstrated effectiveness that represents a community or significant segments of a community and provides support and services to individuals in the community.

(b) "Housing assistance" means assistance available to homeowners and renters to repair disaster-related damages not covered by insurance or by other governmental financial assistance programs, including, but not limited to, costs that are reasonable and necessary to make the essential living areas of a primary residence safe, sanitary, and functional.

(c) "Individual and family grant" means housing assistance and other needs assistance provided pursuant to this article.

(d) "Other needs assistance" means assistance to offset expenses and losses in income not covered by insurance or by other financial assistance resources, including, but not limited to, any of the following:

(1) Income losses.

(2) Costs to clean, repair, or replace essential personal property items.

(3) Medical, dental, and funeral expenses resulting from the local emergency.

(4) Other potentially eligible expenses authorized by the director.

(e) "Tribal government" means an entity formed by the duly constituted governing body of a California Native American tribe in Chapter 905 of the Statutes of 2004, as described in Section 21073 of the Public Resources Code.

(f) "Unusual circumstances" means unavoidable delays that result from recurrence of a disaster, prolonged severe weather within a one-year period, or other conditions beyond the control of the applicant.

8688.2. (a) The director shall allocate funds from the Disaster Assistance Fund to meet the cost of expenses for the purposes described in subdivision (b).

(b) Moneys from the Disaster Assistance Fund may be used to provide financial assistance to local agencies, tribal governments, community-based organizations, and individuals for the following purposes:

(1) To fund local agency, tribal government, and community-based organization costs and services used during disaster response activities, including for rebuilding infrastructure and other systems, and disaster mitigation, incurred as a result of a state of emergency proclaimed by the Governor under the California Emergency Services Act (Chapter 7 (commencing with Section 8550)), excluding the normal hourly wage costs of employees engaged in emergency work activities.

(2) To reimburse local agencies, tribal governments, or community-based organizations that provide individual and family grants.

(3) To provide direct individual and family grants, including housing assistance and other needs assistance, to individuals.

(4) To fund administrative costs and any other assistance deemed necessary by the director.

(5) To fund necessary and required site preparation costs for evacuation and local assistance centers as deemed necessary by the director.

8688.3. (a) When certified by the director, claims of community-based organizations, local agencies, or tribal governments shall be presented to the Controller for payment out of funds made available for that purpose.

(b) The director shall adopt regulations, as determined to be necessary, to govern the administration of the program authorized by this article in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3). These regulations shall include specific eligibility requirements, a procedure for local agencies, tribal governments, and community-based organizations to request the implementation

of this article, and a method for evaluating these requests by the Office of Emergency Services.

8688.4. An allocation may be made to a local agency, tribal government, community-based organization, or an individual, if, within 10 days after the actual occurrence of a disaster, the local agency or tribal government has proclaimed a local emergency and that proclamation is acceptable to the director, or upon the order of the Governor when a state of emergency proclamation has been issued under the California Emergency Services Act (Chapter 7 (commencing with Section 8550)).

8688.5. A local agency, tribal government, community-based organization, or an individual may make an application to the director for state financial assistance pursuant to this article within 60 days after the date of the proclamation of a local emergency. The director may extend the time for this filing only under unusual circumstances.

8688.6. The director shall develop procedures for a local agency, tribal government, or community-based organization to receive an advance of funds to expedite the delivery of individual and family grants following a disaster.

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Date of Hearing: April 7, 2025

ASSEMBLY COMMITTEE ON EMERGENCY MANAGEMENT
Rhodesia Ransom, Chair
AB 624 (Dixon) – As Introduced February 13, 2025

SUBJECT: Office of Emergency Services: federal grant funding; Community Relief Act

SUMMARY: Requires the California Office of Emergency Services (Cal OES) to provide local operational areas and urban areas the maximum local share of the federal Emergency Management Performance Grant, provide the Legislature with additional grant spending information, and establishes the Community Relief Act. Specifically, **this bill**:

1) Requires Cal OES, to the extent permitted by federal law, to provide local operational areas and urban areas the maximum local share of the federal Emergency Management Performance Grant.

2) Requires Cal OES, to the extent permitted by federal law, to provide the Senate Committee on Governmental Organization and the Assembly Committee on Emergency Management with copies of agreements entered into with local governments to spend the state share of funding from the State Homeland Security Grant Program and the Urban Areas Security Initiative Program.

3) Allows Cal OES to retain up to 3 percent of the Emergency Management Performance Grant, State Homeland Security Grant Program, and the Urban Areas Security Initiative Program for administrative purposes.

4) Establishes the Community Relief Act to be administered by the California Office of Emergency Services (Cal OES) to provide local agencies, community-based organizations, and individuals with the assistance they need to quickly recover following a disaster.

5) Allows funds in the California Disaster Assistance Act to be used to provide financial assistance to local agencies, tribal governments, community based organizations and individuals to:
   (a) fund local agency, tribal government, and community-based organization costs and services used during disaster response activities, including for rebuilding infrastructure and other systems, and disaster mitigation, incurred as a result of a state of emergency proclaimed by the Governor under the California Emergency Services Act (Chapter 7 (commencing with Section 8550)), excluding the normal hourly wage costs of employees engaged in emergency work activities;
   (b) reimburse local agencies, tribal governments, or community-based organizations that provide individual and family grants;
   (c) provide direct individual and family grants, including housing assistance and other needs assistance, to individuals;
   (d) fund administrative costs and any other assistance deemed necessary by the director; and
   (e) fund necessary and required site preparation costs for evacuation and local assistance centers as deemed necessary by the director.

6) Makes the following definitions for the purposes of the California Individual Assistance Act:
   (a) "Community-based organization" means a public or private nonprofit organization of demonstrated effectiveness that represents a community or significant segments of a community and provides support and services to individuals in the community.
   (b) "Housing assistance" means assistance available to homeowners and renters to repair disaster-related damages not covered by insurance or by other governmental financial assistance programs, including, but not limited to, costs that are reasonable and necessary to make the essential living areas of a primary residence safe, sanitary, and functional.
   (c) "Individual and family grants" means housing assistance and other needs assistance provided pursuant to this article.
   (d) "Other needs assistance" means assistance to offset expenses and losses in income not covered by insurance or by other financial assistance resources, including, but not limited to, any of the following: income losses; costs to clean, repair, or replace essential personal property items; medical, dental, and funeral expenses resulting from the local emergency; and other potentially eligible expenses authorized by the director.
   (e) "Tribal government' means an entity formed by the duly constituted governing body of a California Native American tribe, as specified.
   (f) "Unusual circumstances" means unavoidable delays that result from recurrence of a disaster, prolonged severe weather within a one-year period, or other conditions beyond the control of the applicant.

7) Provides claims of community-based organizations and local agencies shall be presented to the Controller and may be made available within 10 days after the occurrence of a disaster, as specified.

8) Requires the director to adopt regulations that include specific eligibility requirements, a procedure for local agencies and community-based organizations to request grants, and a method for evaluating these requests by Cal OES.

9) Requires a local agency, community-based organization, or an individual shall make application to the director within 60 days after the date of the proclamation of a local emergency, unless the time for filing is extended under unusual circumstances.

10) Requires Cal OES to develop procedures for a local agency or community-based organization to receive an advance of funds to expedite the delivery of individual and family grants following a disaster.

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EXISTING LAW:

1) Establishes the California Office of Emergency Services (Cal OES) within the office of the Governor and makes Cal OES responsible for the state's emergency and disaster response services for natural, technological, or manmade disasters and emergencies, including responsibility for activities necessary to prevent, respond to, recover from, and mitigate the effects of emergencies and disasters to people and property. (Gov. Code § 8550)

2) Authorizes the Governor to make, amend, and rescind orders and regulations necessary to carry out the provisions of the California Emergency Services Act, requires the orders and regulations to have the force and effect of law, and requires orders and regulations, or amendments or rescissions to orders and regulations, issued during a state of war emergency or state of emergency to be in writing and to take effect immediately upon their issuance. (Gov. Code § 8567)

3) The Federal Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 100-707) authorizes the Federal Emergency Management Agency (FEMA) to provide emergency assistance to states and local entities impacted by disasters. In any emergency, the President may, among other things, authorize public assistance programs aimed at providing essential emergency assistance, repairing and restoring damaged public facilities and removing debris.

4) The EMPG Program is authorized by Section 662 of the Post-Katrina Emergency Management Reform Act of 2006 (PKEMRA), as amended, (Pub. L. No. 109-295) (6 U.S.C. § 762); the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (Pub. L. No. 93-288) (42 U.S.C. §§ 5121 et seq.); the Earthquake Hazards Reduction Act of 1977, as amended (Pub. L. No. 95-124) (42 U.S.C. §§ 7701 et seq.); and the National Flood Insurance Act of 1968, as amended (Pub. L. No. 90448) (42 U.S.C. §§ 4001 et seq.).

5) The Homeland Security Grant Programs, including the State Homeland Security Program (SHSP) and the Urban Area Security Initiative (UASI), are authorized by Section 2002 of the Homeland Security Act of 2002 (Pub. L. No. 107-296, as amended) (6 U.S.C. § 603).

6) Provides FEMA with the statutory authority to deliver numerous disaster and non-disaster financial assistance programs in support of FEMA's mission, largely through grant agreements and cooperative agreements (grants).

7) The California Disaster Assistance Act (CDAA) authorizes the Office of Emergency Services (Cal OES) to administer a disaster assistance program that provides financial assistance for the costs incurred by local governments as a result of a disaster. (Gov. Code § 8680)

8) Under the Sandy Recovery Improvement Act of 2013, requires FEMA, in cooperation with State, local, and Tribal emergency management agencies, to review, update, and revise through rulemaking the factors that FEMA uses to determine whether to recommend provision of Individual Assistance (IA) during a major disaster. (Public Law 113-2, Section 1109).

FISCAL EFFECT: Unknown. This bill has not been analyzed by a fiscal committee.

COMMENTS:

Purpose of the bill: "AB 624 would require that the Office of Emergency Services (OES) provide local agencies with the maximum local share of federal grants and would establish the Community Relief Act, which would establish a grant program to provide financial assistance to local agencies, tribal governments, community-based organizations, and individuals affected by wildfires and other natural disasters. This bill provides a clear and direct way that we can assist our communities in recovering from devastating natural disasters. With hundreds of billions of dollars in damages annually from wildfires, it is imperative that we provide impacted community members with additional support to obtain basic necessities and housing. This is especially important with many Californians facing an insurance crisis and who now find themselves underinsured or wholly uninsured. By providing our communities with additional avenues to obtain recovery funding, we are taking an important step in reducing the devastating impact of wildfires."

Equity impact: According to the author's staff, "Unfortunately, recovery efforts are often inequitable and do not benefit all those affected by natural disasters equally. According to CalMatters, during Hurricane Katrina Recovery Efforts there were severe disparities in aid distribution, and black homeowners were the recipients of only 1.5% of allocated recovery efforts. The other major concern is that low-income groups will be affected disproportionately during recovery efforts. If they are unable to rebuild their homes, California neighborhoods affected by fires may become the target of large development firms. Inadequate recovery efforts will lead to an incentive structure where homeowners without sufficient financial capital to rebuild will sell to developers offering money to buy the land. Providing more grant opportunities will help insulate lower-income groups who were affected by the fires."

Background: The first section of this bill concerns the distribution of three federal homeland security and emergency preparedness grants administered by the Federal Emergency Management Agency (FEMA):

1. The Emergency Management Performance Grant (EMPG) Program – this all-hazard grant addresses vulnerabilities within a framework that prioritizes equity, climate resilience, and readiness. It is awarded to implement preparedness goals and close capability gaps through actions such as providing trainings to community partners, purchasing equipment, hiring additional staff, installing back-up power systems, prepositioning logistics and distribution infrastructure, developing or refining disaster plans, and implementing programs that increase the resilience of underserved communities.
    a. EMPG carries a 1:1 match requirement, from the awardee, for every federal dollar received. In fiscal year 2024, California was awarded $24.5 million, of which nearly half is retained at the state level.
    b. The EMPG Program does not have a provision for the proportion of federal awards the state must award to local jurisdictions vs retain at the state agency level. The discretion is left to Cal OES as the grant-administering agency.

2. The State Homeland Security Grant (SHSG) Program – this grant assists efforts to build, sustain, and deliver capabilities to prepare for, protect against, and respond to acts of terrorism. Priority areas include protection of soft targets/crowded places, intelligence

sharing, domestic violent extremism, cybersecurity, and election security. This money is targeted at planning, training/ exercises, and awareness campaigns, as well as funding needed equipment and capital projects.

a. States are required by FEMA to pass 80% of awarded funds through to local jurisdictions. SHSG has no match requirement. In fiscal year 2023, California was awarded $51.3 million, of which 20% is retained at the state level.

3. Urban Areas Security Initiative (UASI) Program – this grant is very similar to the SHSG program with a particular emphasis on providing resources to high-threat, high-density urban areas.
    a. States are required by FEMA to pass 80% of awarded funds through to local jurisdictions. UASI has no match requirement. In fiscal year 2023, California was awarded $113.9 million, of which nearly 20% is retained at the state level.

In total, the state retains approximately $45 million of these three federal preparedness grants. This bill would realign approximately $12.2 million received under the EMPG program to local jurisdictions.

Community Relief Act: The second section of this bill establishes the Community Relief Act within Cal OES to, as noted above, provide local agencies, community-based organizations, and individuals with the assistance they need to quickly recover following a disaster.

Federal and state disaster assistance and recovery programs leave some behind: Although the state has a robust and sophisticated emergency response and management system, there are individuals and communities that do not meet the criteria for federal or state disaster assistance programs. For example, several counties proclaimed a local emergency due to winter storms this year and requested the Governor issue a state of emergency proclamation and recovery assistance under the California Disaster Assistance Act, but may not have extensive enough damages (in Cal OES's determination) to be granted assistance.

The extent of damages to public infrastructure and residences within a county is one of the factors FEMA considers in evaluating a Governor's request for a major disaster declaration and requests public and individual assistance programs. If the damages to homes and public infrastructure do not meet the federal criteria, the county and individuals will not be eligible for disaster assistance.

Disaster response and recovery: Cal OES serves as the state's leadership hub during all major emergencies and disasters. This includes responding, directing, and coordinating local, state and federal resources and mutual aid assets across all regions to support the diverse communities across the state. Cal OES also is responsible for developing and maintaining the State Emergency Plan and the Disaster Recovery Framework. Cal OES serves as the state's overall coordinator and agent to secure federal government resources through the Federal Emergency Management Agency. Cal OES also administers the California Disaster Assistance Acts funds and several federal emergency preparedness grant programs.

Gaps in Current State and Local Assistance Programs: State and local emergency managers are all too familiar with the limitations of state and federal disaster assistance program. Recently, the Committee has received testimony from emergency management officials regarding the need for community and individual relief programs following the Camp Fire, the Ferndale Earthquake Sequence, the 2023 Winter Storms that impacted Pajaro and Planada, floods in San Diego, and the January 2025 Los Angeles Wildfires. Local emergency managers have consistently expressed the need for a state-based, localized assistance program. They argue this program could be administered with more cultural competence, sensitivity, and flexibility for the diversity of circumstances faced by Californians, while leveraging state agency expertise to avoid duplication of benefits.

Cal OES's Seismic Safety Commission recognize the need for an Individual Assistance program: One of the priority policy recommendations included in the *Ferndale Earthquake Sequence: Understanding Impediments to Local Recovery in Rio Dell, California" April 11, 2024 Report of the Seismic Safety Commission,* is the need for improvements for Individual Assistance. Cal OES's Seismic Safety Commission recommended:

> "The absence of FEMA and CDAA funds for individual assistance disproportionately hinders recovery in communities experiencing disadvantage and underservice that are already struggling financially. Although FEMA has recently improved9 the Individual Assistance Program (i.e., quicker access to funds, expanded eligibility for property and home repairs, simplified application process), the changes do not address the disparity that occurs in a state like California where the minimum-threshold requirement limits the availability of funds. To better avail small communities that experience disadvantage with equitable federal aid after disasters, FEMA should consider expanding the eligibility criteria to include factors such as poverty level and community vulnerability and evaluate impacts on a regional basis as an alternative to statewide thresholds that unfairly penalize residents of large and diverse states, such as California. Further, because communities like Rio Dell face post-disaster financial challenges both at an individual and community level, the State should consider establishing a program like CDAA that provides individual assistance to disaster victims."

FEMA recommends a State-level Individual Assistance Program: The Section 1109 of the Sandy Recovery Improvement Act (SRIA) of 2013 (Public Law 113-2) required FEMA, in cooperation with State, local, and Tribal emergency management agencies, to review, update, and revise through rulemaking the factors found at 44 CFR 206.48 that FEMA uses to determine whether to recommend provision of Individual Assistance (IA) during a major disaster. These factors help FEMA measure the severity, magnitude, and impact of a disaster, as well as the capabilities of the affected jurisdictions.

During the rule making process FEMA stated, "FEMA strongly believes States are ultimately responsible for the well-being of their citizens and that States have a responsibility to plan for disasters, pre-identify funding and resources, and to provide assistance to their citizens after a disaster. This should include the establishment, funding, and improvement of State-level individual assistance programs."

Individual Assistance Program in Other States: Several states offer or have offered assistance to individuals following a disaster. Following Hurricane Michael in late 2018, Georgia announced

and established the Disaster Temporary Assistance for Needy Families Program (DTANF) in 20 Georgia counties to support families as they continue to recover from the storm. Those determined eligible for assistance received one lump sum payment for the family size that was equal the sum of four months benefits. The program extended assistance to low-income families who suffered a loss of housing because of Hurricane Michael.

The State of Arkansas established a State Individual Assistance Program, as authorized by Arkansas Code Annotated 12-75-101. The Arkansas Department of Emergency Management administers the State Individual Assistance Program. Through the development of a disaster declaration and damage assessments, individuals may be eligible to receive disaster assistance. The assistance is for qualified homeowners/renters whose primary residence was damaged or destroyed in a declared designated area. If the damage exceeds the capabilities of local government, a state declaration will be requested through the Governor's Office

The Mississippi Emergency Management Agency oversees an Office of Individual Assistance, which is comprised of their Housing Bureau and Disability Integration Advisor. The Office of Individual Assistance also works directly with the different volunteer organizations before, during and after a disaster. The Individual Assistance Program coordinates assistance provided to individuals, households, and businesses recovering from disaster or emergency impacts. After a severe weather event, the Office of Housing and Individual Assistance receives an influx of calls from residents of the impacted areas. If warranted, the IA Bureau will activate the Disaster Call Center to connect callers with the resources needed to return to pre-disaster status.

The State of Alaska's Department of Homeland Security and Emergency Management administers an Individual Assistance (IA) Program, which includes the Individual and Family Grants (IFG) and Temporary Housing Grants (THG). IA provides financial assistance to disaster survivors through grants to assist individuals and families in the declared disaster area with serious losses not covered or not fully covered by their insurance or other financial sources or means. The mission of the Alaska Individual Assistance Program is to provide financial assistance to individuals or families whose: primary residence was destroyed or damaged; only means of transportation was destroyed or damaged, when alternative is not available; essential personal property was destroyed, damaged, or lost; and medical, funeral or dental expenses that were incurred as a direct result of the disaster.

Related legislation: Related Legislation: AB 262 (Caloza) of this Session. Establishes the Individual Assistance Program within Cal OES to provide assistance to local agencies, community-based organizations, and individuals recovering from disasters. (Set to be heard in the Assembly Committee on Emergency Management on April 7, 2025)

AB 294 (Gallagher) Authorizes the California Office of Emergency Services (Cal OES) to prioritize funding and technical assistance for infrastructure and housing recovery projects in communities that suffered losses of population and business due to a local, state, or federal emergency or disaster. (Set to be heard in the Assembly Committee on Emergency Management on April 7, 2025)

Prior legislation: AB 2660 (Committee on Emergency Management) of the 2023-24 Session. Would have required Cal OES to provide local operational and urban areas the maximum local share of federal grand funding administered by OES from the Emergency Management Performance Grant Program (EMPG); requires OES to provide specified legislative policy committees with copies of agreements entered into local governments, as specified; and authorizes OES to retain up to three percent of federal grant funding for administrative purposes, as specified. (Died in the Senate Committee on Appropriations)

AB 1786 (Rodriguez) of the 2023-24 Session. Would have created two disaster relief programs to help individuals, families, and communities quickly recover from disasters due to or exacerbated by climate change, as specified. (Died in the Assembly Committee on Appropriations)

AB 513 (Rodriguez) of the 2023-24 Session. Would have established the California Individual Assistance Act to be administered by Cal OES. (Died in the Senate Committee on Appropriations)

REGISTERED SUPPORT / OPPOSITION:

Support

None on file.

Opposition

None on file.

Analysis Prepared by: Mike Dayton / E.M. / (916) 319-3802

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April 07, 2025

The Honorable Diane Dixon
California State Assembly, District 72
1021 O Street, Room 5330
Sacramento, CA 95814

Re: Assembly Bill 624 (Dixon), As Introduced 02/13/2025
Position: SUPPORT IF AMENDED
Hearing: 04/07/2025; Assembly Committee on Emergency Management

Dear Assembly Member Dixon:

On behalf of the California Fire Chiefs Association (CalChiefs) and the Fire Districts Association of California (FDAC), I write to express their Support If Amended position on Assembly Bill 624 (Dixon), which seeks to enhance California's disaster response and recovery framework through the establishment of the "Community Relief Act."

AB 624 takes important steps toward improving the distribution and accessibility of disaster relief funds by requiring the California Office of Emergency Services (Cal OES) to prioritize local operational and urban areas in its allocation of federal Emergency Management Performance Grant (EMPG) Program funds. The bill also establishes a new state-administered grant program to support local agencies, tribal governments, community-based organizations, and individuals impacted by disasters—creating a more consistent and reliable mechanism for financial aid.

While we strongly support the intent of AB 624, we respectfully recommend an amendment to ensure that a minimum percentage of funding is specifically allocated to fire protection districts. This would provide essential funding stability to districts on the front lines of emergency response and recovery. Additionally, we urge caution in allowing grant programs to become a default mechanism for sustaining long-term fire district operations; grant funding should complement, not replace, sustainable state investment in fire and emergency services.

We appreciate your thoughtful approach to this important issue and look forward to seeing the bill continue to move through the legislative process.

Sincerely,
Public Policy Advocates, LLC

Julee Malinowski-Ball

JMB/kmg
cc: Honorable Members, Assembly Committee on Emergency Services
Mike Dayton, Chief Consultant; Assembly Committee on Emergency Management
Rose Rastbaf, Consultant, Assembly Republican Caucus

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Assembly
California Legislature

PATRICK J. AHRENS
ASSEMBLYMEMBER, TWENTY-SIXTH DISTRICT

Assembly Bill 340: Employee-Union Communications

SUMMARY

Assembly Bill (AB) 340 ensures that communications between employees and their union representatives remain confidential by codifying existing decisions of the California Public Employment Relations Board, which prohibits public employers from coercing union representatives and interfering in the representation of union members.

BACKGROUND

In California, public employees have the right to unionize under various state laws and regulations. These laws protect workers' rights to join, form, and participate in labor organizations for collective bargaining purposes. Additionally, the state has enacted laws to prevent unfair labor practices by employers, ensuring workers can exercise their rights to organize without facing retaliation or discrimination.

In California School Employees Association v. William S. Hart Union High School District (2018) PERB Decision No. 2595, p. 7., PERB determined that the harm to employees' protected labor rights outweighed the employer's interest in investigating an alleged improper relationship between an employee and the union representative. In another case, PERB adopted a three-part test of the NLRB for determining when an employer's questions of an employee or union representative during a deposition interfere with the protected labor rights of public employees under PERB-administered statutes. (Victor Valley Teachers Association v. Victor Valley Union High School District (2022) PERB Decision No. 2822.)

These PERB cases recognize the importance of the employee-employee representative relationship and the risk that questioning an employee or employee representative about communications between the employee and representative poses to an employee's rights to engage in self-organization and collective bargaining. However, they do not create an evidentiary privilege for employee-employee representative communications or create a strict rule of confidentiality. Instead, they allow an employer to question an employee or representative in various instances based on the employer's need for the information and a balancing test between that need and the employee's rights.

SOLUTION

While employees commonly believe that discussions with their union representative regarding workplace matters, such as discipline or grievances, are confidential, current state law does not explicitly prohibit employers from compelling employees or their representatives to disclose such communications.

AB 340 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. Maintaining confidentiality in such communications is essential to fostering trust and ensuring effective representation.

SUPPORT

Peace Officers Research Association of California - Sponsor
California Faculty Association – Cosponsor
California Association of Highway Patrolman – Cosponsor
California Community College Independents
California Association of Psychiatric Technicians
Orange County Employees Association
Professional Engineers in California Government
California Nurses Association

Staff Contact: Zach Flowers, Zachariah.Flowers@asm.ca.gov , (916)3192026 Last updated: 3/17/2025

AMENDED IN ASSEMBLY MARCH 5, 2025

CALIFORNIA LEGISLATURE—2025–26 REGULAR SESSION

ASSEMBLY BILL No. 340

Introduced by Assembly Member Ahrens

January 28, 2025

An act to ~~amend Sections 3506.5, 3519, 3543.5, and 3571 of the Government Code, and to amend Section 28858 of the Public Utilities~~ *add Section 3558.9 to the Government* Code, relating to employer-employee relations.

LEGISLATIVE COUNSEL'S DIGEST

AB 340, as amended, Ahrens. Employer-employee relations: confidential communications.

Existing law that governs the labor relations of public employees and employers, ~~including~~ *including, among others,* the Meyers-Milias-Brown Act, the Ralph C. Dills Act, provisions relating to public schools, *and* provisions relating to higher education, ~~and provisions relating to the San Francisco Bay Area Rapid Transit District,~~ prohibits employers from taking certain actions relating to employee organization, including imposing or threatening to impose reprisals on employees, discriminating or threatening to discriminate against employees, or otherwise interfering with, restraining, or coercing employees because of their exercise of their guaranteed rights. Those provisions of existing law further prohibit denying to employee organizations the rights guaranteed to them by existing law.

This bill would ~~also~~ prohibit a ~~local public agency employer, a state employer, a public school employer, a higher education employer, or the district~~ *public employer* from questioning ~~any employee or employee representative~~ *a public employee, a representative of a recognized*

employee organization, or an exclusive 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. *The bill would also prohibit a public employer from compelling a public employee, a representative of a recognized employee organization, or an exclusive representative to disclose those confidential communications to a third party. The bill would not apply to a criminal investigation or when a public safety officer is under investigation and certain circumstances exist.*

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

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

SECTION 1. Section 3558.9 is added to the Government Code, to read:

3558.9. (a) (1) A public employer shall not question a public employee, a representative of a recognized employee organization, or an exclusive representative regarding communications made in confidence between a public employee and the representative in connection with representation relating to any matter within the scope of the recognized employee organization's representation.

(2) Paragraph (1) is intended to be consistent with, and not in conflict with, William S. Hart Union High School District (2018) PERB Dec. No. 2595.

(b) A public employer shall not compel a public employee, a representative of a recognized employee organization, or an exclusive representative to disclose to a third party, communications made in confidence between a public employee and the representative in connection with representation relating to any matter within the scope of the recognized employee organization's representation.

(c) Notwithstanding subdivisions (a) and (b), this section does not apply to a criminal investigation and does not supersede Section 3303.

~~SECTION 1. The Legislature finds and declares the following:~~

~~(a) It is the intent of the Legislature, in enacting this act, to establish an employee-union representative privilege in the context of California public employment.~~

~~(b) As with the attorney-client privilege, there is a strong interest in encouraging an employee accused of wrongdoing to communicate fully and frankly with their union representative, in order to receive accurate advice about the disciplinary process. The expectation of confidentiality is critical to the employee-union representative privilege. Without confidentiality, union members would be hesitant to be fully forthcoming with their representatives, detrimentally impacting a union representative's ability to advise and represent union members with questions or problems.~~

~~(c) This employee-labor organization representative privilege is intended to extend to communications made in confidence, in connection with representation relating to concerted activities, including, but not limited to, anticipated or ongoing disciplinary proceedings, between an employee and their recognized labor organization representative, and where the representative is acting in their official representative capacity.~~

~~(d) This privilege does not extend to criminal investigations, but does prohibit the employing agency from compelling any disclosures, including to third parties.~~

~~(e) It is the intent of the legislature to supersede American Airlines, Inc. v. Superior Court, 114 Cal.App.4th 881 (2003).~~

~~SEC. 2. Section 3506.5 of the Government Code is amended to read:~~

~~3506.5. A public agency shall not do any of the following:~~

~~(a) Impose or threaten to impose reprisals on employees, to discriminate or threaten to discriminate against employees, or otherwise to interfere with, restrain, or coerce employees because of their exercise of rights guaranteed by this chapter.~~

~~(b) Deny to employee organizations the rights guaranteed to them by this chapter.~~

~~(c) Question 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.~~

~~(d) Refuse or fail to meet and negotiate in good faith with a recognized employee organization. For purposes of this~~

~~subdivision, knowingly providing a recognized employee organization with inaccurate information regarding the financial resources of the public employer, whether or not in response to a request for information, constitutes a refusal or failure to meet and negotiate in good faith.~~

~~(e) Dominate or interfere with the formation or administration of any employee organization, contribute financial or other support to any employee organization, or in any way encourage employees to join any organization in preference to another.~~

~~(f) Refuse to participate in good faith in an applicable impasse procedure.~~

~~SEC. 3. Section 3519 of the Government Code is amended to read:~~

~~3519. It shall be unlawful for the state to do any of the following:~~

~~(a) Impose or threaten to impose reprisals on employees, to discriminate or threaten to discriminate against employees, or otherwise to interfere with, restrain, or coerce employees because of their exercise of rights guaranteed by this chapter. For purposes of this subdivision, "employee" includes an applicant for employment or reemployment.~~

~~(b) Deny to employee organizations rights guaranteed to them by this chapter.~~

~~(c) Question 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.~~

~~(d) Refuse or fail to meet and confer in good faith with a recognized employee organization.~~

~~(e) Dominate or interfere with the formation or administration of any employee organization, or contribute financial or other support to it, or in any way encourage employees to join any organization in preference to another.~~

~~(f) Refuse to participate in good faith in the mediation procedure set forth in Section 3518.~~

~~SEC. 4. Section 3543.5 of the Government Code is amended to read:~~

~~3543.5. It is unlawful for a public school employer to do any of the following:~~

(a) Impose or threaten to impose reprisals on employees, to discriminate or threaten to discriminate against employees, or otherwise to interfere with, restrain, or coerce employees because of their exercise of rights guaranteed by this chapter. For purposes of this subdivision, "employee" includes an applicant for employment or reemployment.

(b) Deny to employee organizations rights guaranteed to them by this chapter.

(c) Question 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.

(d) Refuse or fail to meet and negotiate in good faith with an exclusive representative. Knowingly providing an exclusive representative with inaccurate information, whether or not in response to a request for information, regarding the financial resources of the public school employer constitutes a refusal or failure to meet and negotiate in good faith.

(e) Dominate or interfere with the formation or administration of any employee organization, or contribute financial or other support to it, or in any way encourage employees to join any organization in preference to another.

(f) Refuse to participate in good faith in the impasse procedure set forth in Article 9 (commencing with Section 3548).

SEC. 5. Section 3571 of the Government Code is amended to read:

3571. It shall be unlawful for the higher education employer to do any of the following:

(a) Impose or threaten to impose reprisals on employees, to discriminate or threaten to discriminate against employees, or otherwise to interfere with, restrain, or coerce employees because of their exercise of rights guaranteed by this chapter. For purposes of this subdivision, "employee" includes an applicant for employment or reemployment.

(b) Deny to employee organizations rights guaranteed to them by this chapter.

(c) Question 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.~~

~~(d) Refuse or fail to engage in meeting and conferring with an exclusive representative.~~

~~(e) Dominate or interfere with the formation or administration of any employee organization, or contribute financial or other support to it, or in any way encourage employees to join any organization in preference to another. However, subject to rules and regulations adopted by the board pursuant to Section 3563, an employer shall not be prohibited from permitting employees to engage in meeting and conferring or consulting during working hours without loss of pay or benefits.~~

~~(f) Refuse to participate in good faith in the impasse procedure set forth in Article 9 (commencing with Section 3590).~~

~~(g) Consult with any academic, professional, or staff advisory group on any matter within the scope of representation for employees who are represented by an exclusive representative, or for whom an employee organization has filed a request for recognition or certification as an exclusive representative until such time as the request is withdrawn or an election has been held in which "no representative" received a majority of the votes cast. This subdivision is not intended to diminish the prohibition of unfair practices contained in subdivision (d). For the purposes of this subdivision, the term "academic" shall not be deemed to include the academic senates.~~

~~SEC. 6. Section 28858 of the Public Utilities Code is amended to read:~~

~~28858. It is unlawful for the district to do any of the following:~~

~~(a) Impose or threaten to impose reprisals on employees, to discriminate or threaten to discriminate against employees, or otherwise to interfere with, restrain, or coerce employees because of their exercise of rights guaranteed to them by this chapter. As used in this subdivision, "employee" includes an applicant for employment or reemployment with the district.~~

~~(b) Deny employee organizations rights guaranteed to them by this chapter.~~

~~(c) Question 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.~~

~~(d) Refuse or fail to meet and negotiate in good faith with an exclusive representative. Knowingly providing an exclusive representative with inaccurate information, whether or not it is in response to a request for information, constitutes a refusal or failure of the district to meet and negotiate in good faith with the exclusive representative.~~

~~(e) Dominate or interfere with the formation or administration of any employee organization, or contribute financial or other support to it, or in any way encourage employees to join any employee organization in preference to another.~~

~~(f) Refuse to participate in good faith in mutually agreed upon impasse procedures.~~

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Date of Hearing: March 19, 2025

ASSEMBLY COMMITTEE ON PUBLIC EMPLOYMENT AND RETIREMENT
Tina S. McKinnor, Chair
AB 340 (Ahrens) – As Amended March 5, 2025

SUBJECT: Employer-employee relations: confidential communications

SUMMARY: Prohibits an employer from questioning an employee or employee representative regarding communications between the employee and employee representative, among other provisions. Specifically, **this bill:**

1) Prohibits a public employer from questioning any employee, a representative of a recognized employee organization, or an exclusive representative regarding communications made in confidence between a public employee and the representative in connection with representation relating to any matter within the scope of the recognized employee organization's representation.

2) Establishes that its provisions are intended to be consistent, and not in conflict, with *William S. Hart Union High School District* (2018), PERB Decision No. 2595.

3) Prohibits a public employer from compelling disclosures to a third party, as provided.

4) Does not apply to criminal investigation, and does not supersede existing law relating to investigations and interrogations of public safety officers.[1]

EXISTING LAW:

1) Provides a privilege enabling a party to refuse to testify or otherwise disclose confidential communications made in the course of certain relationships, including the following within the Evidence (Evid.) Code:

   a) The lawyer-client relationship. (Section 954.)

   b) The spousal relationship. (Section 980.)

   c) Physician-patient relationship. (Section 994.)

   d) Psychotherapist-patient relationship. (Section 1014.)

   e) Sexual assault counselor-victim relationship. (Section 1035.8.)

   f) Domestic violence counselor-victim relationship. (Section 1037.5.)

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[1] This bill incorporates Section 3303 of the Gov. Code by reference. Commonly deemed or referred to as the "heart" of the Public Safety Officers Procedural Bill of Rights Act (PSOPBRA), this specific section relates to notice to, and the nature of investigations and interrogations of, "public safety officers," as this term is statutorily defined.

g) Clergy-penitent relationship. (Sections 1033 and 1034.)

2) Prohibits the holder of a privilege from claiming a privilege based on one of the relations listed above if a holder of the privilege, without coercion, has disclosed a significant part of the communication or has consented to a disclosure made by anyone. (Section 912 (a) of the Evid. Code.)

3) Provides that if two or more persons are joint holders of a privilege, a waiver of a right of a particular joint holder of the privilege to claim the privilege does not affect the right of another joint holder to claim the privilege. In the case of the spousal privilege, the right of one spouse to claim the privilege does not affect the right of the other spouse to claim the privilege. (Section 912 (b) of the Evid. Code.)

4) Provides that if a privilege is claimed on the ground that the matter sought to be disclosed is a communication made in confidence in the course of a recognized privileged relation, then the communication is presumed to have been made in confidence and the opponent of the claim of privilege has the burden of proof to establish that the communication was not confidential. Additionally, provides that a communication does not lose its privileged character for the sole reason that it was communicated by electronic means or because persons involved in the delivery, facilitation, or storage of electronic communication may have access to the content of the communication. (Section 917 of the Evid. Code.)

5) Governs collective bargaining in the private sector under the federal National Labor Relations Act (NLRA) but leaves it to the states to regulate collective bargaining in their respective public sectors. (Section 151 *et seq.* Title 29, United States Code.)

   While the NLRA and the decisions of its National Labor Relations Board often provide persuasive precedent in interpreting state collective bargaining law, public employees have no collective bargaining rights absent specific statutory authority establishing those rights.

6) Provides several statutory frameworks under California law to provide public employees collective bargaining rights, govern public employer-employee relations, and limit labor strife and economic disruption in the public sector through a reasonable method of resolving disputes regarding wages, hours and other terms and conditions of employment between public employers and recognized public employee organizations or their exclusive representatives. These include some, but not all, public transit districts.

7) Expressly establishes as unlawful within various statewide public employer-employee relations statutes, certain acts or conduct by a public employer relating to employee and labor organization rights, including specified acts or conduct relating to the collective bargaining process. Similar unlawful acts also are expressly established as to employee organizations.

8) Establishes the Public Employee Communication Chapter (PECC), which gives exclusive representatives of California's public employees specific rights designed to provide them with meaningful access, and the ability, to effectively communicate with the represented members. (Sections 3555 *et seq.* of the Government (Gov.) Code.) Among other statutes, the PECC is within the administrative jurisdiction of the Public Employment Relations Board (PERB).

9) Establishes the PERB, a quasi-judicial administrative agency charged with administering certain statutory frameworks governing employer-employee relations, resolving disputes, and enforcing the statutory duties and rights of public agency employers, employees, and employee organizations, but provides the City and County of Los Angeles a local alternative to PERB oversight. (Sections 3541 *et seq.* of the Gov. Code.)

10) Does not cover California's public transit districts by a common employer-employee relations statute. Instead, while some transit districts are subject to specific employer-employee relations statutes, the majority of transit districts are subject to labor relations provisions found in each district's specific Public Utilities Code (P.U.C.) enabling statute, joint powers agreements, or in articles of incorporation, and bylaws.

    Generally, these provisions provide employees with basic rights to organization and representation, but do not define or prohibit unfair labor practices. Unlike other California public agencies and employees, public transit districts and their employees not within the jurisdiction of the PERB have no recourse to the PERB. Instead, they must rely upon the courts to remedy alleged violations. Additionally, they may be subject to provisions of the federal Labor Management Relations Act of 1947 and the 1964 Urban Mass Transit Act (modernly referred to as the Federal Transit Act).

11) Establishes the PSOPBRA, which provides procedural rights that must be accorded to such officers when they are subject to investigation or discipline. (Sections 3300 *et seq.* of the Gov. Code.)

FISCAL EFFECT: Unknown. This bill is keyed as fiscal by Legislative Counsel.

COMMENTS:

1) **Background**

As previously stated under "Existing Law," above, the PECC is established. Within this statute, the legislative findings and declarations expressly state that, "[…] the ability of an exclusive representative to communicate with the public employees it represents is necessary to ensure the effectiveness of state labor relations statutes, and the exclusive representative cannot properly discharge its legal obligations unless it is able to meaningfully communicate through cost-effective and efficient means with the public employees on whose behalf it acts.

"In most cases, that communication includes an opportunity to discuss the rights and obligations created by the contract and the role of the representative to answer questions. That communication is necessary for harmonious public employment relations […]." (Section 3555 of the Gov. Code.)

Although the PECC provides employee organizations such communications rights, unlike other states that have established by statute or judicial decision, an explicit privilege regarding employee-union communications, public employees in California do not have statutory communication protections with their employee organizations, which may foster apprehension and undermine trust in employee representation.

2) **A Core Function of Employee Organizations: Protecting Employee Rights through Representation**

Here, as stated verbatim in a prior analysis of a bill of similar subject, "[t]he communications that this bill seeks to protect occur, primarily, when an employee is filing a grievance or facing an adverse action against their employer. In these cases, the [labor organization] agent's role in representing an employee reflects one of the core functions of the labor organization [and of organized labor, as a whole] representing an employee in a dispute with their employer […].

"Should employees begin to question the confidentiality of their communications with [labor organization] agents, such fears would not only undermine the core functions of the [organization], but may provide a chilling effect with regards to employees coming forward with claims of sexual harassment, civil rights violations, or other instances of workplace misconduct."[2]

3) **Should this Bill Advance and Be Enacted, California Would Not be the First State to Do So**

Although this bill does not propose to establish a *per se* explicit communications evidentiary privilege similar to those that exist for the respective lawyer-client, physician-patient, psychotherapist-patient, sexual assault counselor-victim, domestic violence counselor-victim, and clergy-penitent relationships, other states, either by statute or court ruling, have effectuated a privilege for certain communications between a labor organization agent and a represented employee.

For example, in 2012, the Alaska Supreme Court recognized that a privilege between union agents and employees, similar to that between lawyers and their clients, was necessary to encourage employees to "communicate fully and frankly" with their union agents.[3] The court noted that to force disclosure of such communication, particularly in the context of grievance

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[2] See analysis of Assembly Bill 2421 (Low, 2024), Assembly Committee on Public Employment and Retirement. April 3, 2024.
[3] *Peterson v. State* (2012) 280 P. 3d. 559, 565.

discussions, would have a chilling effect on the employee's willingness to come forward and speak candidly with their agents.[4]

For the same reasons, Illinois and Maryland codified the privilege between employees and their union representatives. In Maryland, labor organizations and agents of labor organizations cannot be compelled to disclose the information that is given to them by an employee so long as that information relates to an employee grievance.[5] The Illinois provision extends even greater protection to the union agent and employee privilege. Under Illinois state law, the privilege between the union agent and employee extends to both civil and criminal proceedings…."[6] And, in Washington, an employee-union communications privilege form examination and disclosure exists.[7]

4) **Related PERB Decisions**

In *California School Employees Assn. v. William S. Hart Union High School District* (2018), which is incorporated in this bill, the Administrative Law Judge found that an employer interfered with employee and union rights by asking a union steward about complaints received from bargaining unit members about another unit member.[8]

In that case, and recall from earlier that the NLRA and decisions of the NLRB often provide persuasive precedent in interpreting state collective bargaining law, the PERB cited another one of its decisions where it stated that, "[it] is […] beyond dispute that an employer's inquiries into discussions between employees and their union representatives have a tendency to chill the protected activities of both the employees and the representatives." (*County of Merced* (2014) PERB Decision No. 2361-M, pp. 7-8, 10.) Further, citing *Cook Paint & Varnish Co.* (1981) 258 NLRB 1230, 1232, the PERB's decision in *County of Merced (id.)* states, "[…] as the NLRB has explained, allowing an employer to compel disclosure of the substance of conversations between an employee and [their] union steward 'manifestly restrains employees in their willingness to candidly discuss matters with their chosen, statutory representatives,' and inhibit[s] stewards in obtaining the needed information from employees. Such conduct also interferes with protected rights more generally, because it 'cast(s) a chilling effect over all of [the] employees and their stewards who seek to candidly communicate with each other over matters' concerning their employment." *(Cook Paint.)*

It is further noted that the aforementioned PERB decisions are not solely those where it has similarly decided. For example, it adopted a three-part test of the NLRB for determining when an employer's questions of an employee or union representative during a deposition interfere with protected labor rights of public employees (*Victor Valley Union High School District* (2022), PERB Decision No. 2822), and regarding certain safeguards when interviewing an

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[4] *Id.*, at p. 563; pp. 565-567.
[5] Section 9-124, Maryland Courts and Judicial Proceedings Code.
[6] 735, Illinois Compiled Statutes, 5/8-803.5.
[7] Washington State Legislature: https://app.leg.wa.gov/billsummary?billnumber=1187&year=2023
[8] PERB Decision No. 2595 *(id.)*.

employee in preparation for an arbitration hearing. (*City of Commerce* (2018) PERB Decision No. 2602, citing, *inter alia, Johnnie's Poultry Company* (1964) 146 NLRB 770, enf. den. (8th Cir. 1965) 344 F.2d 617.)[9]

5) **Harmonizing Public Employee Representation by an Employee Organization Relative to Employee Weingarten Rights, Rights of Communication by Employee Organizations With Public Employees, and the Various State Statutes that Confer Organization and Representation Rights to Those Employees**

Questioning a union agent about whether (or what) represented employees had communicated to the agent interferes with an employee's right to serve as a union agent and employee rights to confer with their union agent. A public employer's legitimate investigation into alleged wrongdoing cannot include quizzing a union agent (or employee) about the substance of their communication; thereby, deputizing the employee organization as the employer's agent for conducting disciplinary investigations.

What are "Weingarten rights?" Following the United States (U.S.) Supreme Court Ruling in *NLRB v. Weingarten, Inc.* (1975) 420 U.S. 251, where an employer denied an employee's request for union representation at an interview and where the employee reasonably believed the interview might result in disciplinary action, the court reversed a judgement by the U.S. Court of Appeals for the Fifth Circuit and held that the employer violated Section 8 of the NLRA. There, the U.S. Supreme Court held that unionized employees have a right to have a union representative present during an *investigatory interview*. As a result of that decision, such rights have commonly been referred to as "Weingarten Rights." These rights apply during such interviews *conducted by the employer and where the employee reasonably believes may result in disciplinary action. (Emphasis added.)*

It is noted that, the provisions of this bill would be enacted within Chapter 11.5, Division 4 of Title 1 of the Gov. Code, known as the PECC; thus, uniformly applying its public sector employment relations provisions to local, state, K-14 education, higher education (California State University, University of California, and San Francisco College of Law [formerly, Hastings College of Law]), Judicial Council, trial court (and trial court interpreters), and public transit district employers and their employees governed by the Chapter.[10]

While providing for and applying such uniformity, this bill seeks to ensure protection of public employee-employee representative communications for purposes of representation, and more

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[9] In *Johnnie's Poultry Company (id.),* the NLRB recognized that where an employer has a legitimate cause to inquire, it may exercise the privilege of interrogating employees on matters involving their NLRA Section 7 rights without incurring NLRA Section 8(a)(1) liability. To remove the coercive nature of the questioning, the employer must communicate the purpose of the questioning to the employee; provide assurance that no reprisal will take place; that employee participation is voluntary; and, the questioning must occur in a context free from employer hostility to union organization and not itself be coercive in nature, nor the questions exceed the necessities of legitimate purpose by prying into other union matters, eliciting information concerning an employee's subjective state of mind, or otherwise interfering with the statutory rights of employees.

[10] See Section 3555.5 of the Gov. Code.

specifically, representation as to matters within the scope of the employee representative's representation, except in criminal investigations, and investigations and interrogations of public safety officers, as provided. In doing so, "[…] this bill recognizes that unlike most professional-client relationships, the [labor organization] agent owes a duty not only to the employee, but also to all of the employees represented by the [labor organization]," and "… the [labor organization] agent… may…. refuse to disclose the content of [the …] communication on the grounds that disclosure could adversely affect the union agent's other represented employees. This bill would provide employees assurances that their communications would be safe, and empower employees to [candidly] communicate [with their labor organization agent consistent with the labor organization's core functions]."[11]

Further, as with Weingarten case law rights, statutory employee organization communication rights, and the various statutes the confer organization rights to public employees, this bill may be viewed as:

a) Consistent and harmonious with employee Weingarten rights by safeguarding employee-employee organization communications, with certain expressly-stated exceptions;

b) Consistent and harmonious with the express legislative intents and purposes of the PECC by safeguarding employee organization-employee communications relative to public employers and their employees covered by that Chapter;[12] and,

c) Consistent and harmonious with an employee's rights to join and participate in the activities of an employee organization, and an employee organization's paramount legal obligation to represent its members (without employer interference).[13]

It is further noted that the uniformity and harmony provided by this bill would not eviscerate fully the ability of a party to file an unfair labor practice charge (ULP) with the PERB as, naturally, the facts, circumstances, and merit of each ULP filed would continue to be reviewed by the PERB for a determination as currently exists under the PECC and other employment relations statutes that it administers.

6) **Statement by the Author**

"Many employees believe discussions about their jobs with their union representative are private and cannot be shared with their employer. However, the law does not stop employers from compelling employees or their representatives to share these conversations. The goal [of this bill] is to create a standard that employee – union representative conversation are protected to

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[11] See fn. 2.
[12] Section 3555.5, *id.*
[13] For example, see Sections 3500, 3503, 3506, 3506.5, 3515, 3515.5, 3519, 3524.51, 3524.56, 3524.57, 3524.71, 3543, 3543.1, 3543.5, 3565, 3571, 71630, 71631, 71633, and 71815 the Gov. Code, and Sections 28849, 28856, 28858, 102399, 102400, 102404, 102406, 100300, 100309, 98160.5, 98162, 98169, 999563, 19563.7 of the Public Utilities Code.

create a safe space for employees to discuss their rights and concerns with their union representatives."

7) **Comments by Supporters**

The Peace Officers' Research Association states, among other things, that, "[t]his bill would codify existing decisions of the California Public Employment Relations Board which prohibit public employers from coercing union representatives and interfering in the representation of union members by questioning union representatives and members 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. The prohibition on such questioning is limited to public employers, so it would not affect criminal investigations conducted by separate and independent third parties, but employers could not compel disclosure of communications or order disclosure to third parties connected to or acting on behalf of the public employer. The bill does not create a privilege equal to attorney/client or doctor/patient privileges. No privilege would exist in a civil or criminal proceeding where someone other than the employing agency or its agents sought evidence regarding those communications. [This] bill is modest and balanced. It prevents public agencies from interfering in union representation matters and communications in a host of circumstances, but it does not create a statutory privilege. In fact, the prohibited conduct would merely constitute an unfair labor practice to be adjudicated by PERB."

In part, the California Community College Independents state that, "[w]hen faculty members can communicate confidentially with their representatives without fear of disclosure, they are better positioned to address workplace issues that directly impact educational quality and student success. By strengthening the ability of faculty to seek guidance and representation without compromising confidentiality, [this bill] supports a more collaborative and productive labor relations environment within our community colleges. When faculty can freely discuss concerns with their representatives, issues can be addressed more efficiently and effectively, ultimately creating a better educational environment for students."

The Orange County Employees Association states, "[t]e provisions outlined in this bill are vital for ensuring that employees can communicate openly and honestly with their union representatives without the fear of retaliation or discrimination. This confidentiality is essential not only for the protection of individual employees but also for the integrity of our labor practices. By prohibiting employers from questioning employees about their confidential communications, [this bill] reinforces the rights of employees to seek assistance and representation freely, [and] aligns with […] fostering a fair and supportive workplace, where employees feel safe to voice their concerns and seek guidance."

8) **Comments by Opponents**

A coalition consisting of various local government entity representatives, healthcare districts, public school boards, and public school administrators, among others states, among other things, that, this bill would: (1) add new costs and liability for the state, local governments, and schools. Here, they express that, "[t]o conduct proper investigations that uphold the public's trust, protect against the misuse of public funds, and ensure the safety and well-being of both public employees and the public at large, it is critical that a public employer has the ability to interview all individuals with relevant information to ascertain the facts and understand the matter fully. [This bill] would increase investigation and litigation costs for state as well as local governments and schools by creating incomplete investigations, since all appropriate employees with relevant information cannot be questioned. Costs and risks may also increase as conduct challenged as unlawful under the bill's provisions is adjudicated before the [PERB]. For schools, this is a drain of Proposition 98 funding." (2) [this bill] is "inconsistent with the PERB decision [incorporated in this bill.]" Here, the coalition asserts that, "[this decision] engaged in a circumstantial analysis to determine whether employer questioning was prohibited or not, while weighing the employee's and employer's interests. [This bill] goes far beyond that, forgoing any circumstantial analysis or weighing of interests. It categorically prohibits questioning of confidential employee representative communications, except for narrow, limited exceptions," and "… we are not aware of evidence that the PERB is denying these interests of employees on this issue, raising the question of whether a legislative solution is necessary."

Opponents further add that, this bill is an "expansion of a new one-sided standard," where it "would create a de facto prohibition on employers requesting a court to compel disclosure of purportedly confidential communications, which is the same outcome as if the communication was privileged in those circumstances. This will have a significant impact on judicial and administrative proceedings." Finally, the coalition asserts that, this bill will "[endanger] workplace safety," and [while it] includes [narrow exceptions], many necessary investigations are still subject to the bill's limitations, putting safety at risk [by hindering] employees who wish to voluntarily report an incident or testify in front of necessary misconduct investigations since an employer would be prohibited from certain lines of questioning," and "limit the ability of public employers to carry out the requirements of… [Chapter 289, Statutes of 2023 (Senate Bill 553, Cortese)].

The coalition of opponents conclude by stating that, "[m]aking matters worse, employers may not even know they are acting contrary to [this bill's] restrictions…, because only the employee or the representative would know or could decide when a communication was 'made in confidence,, [which] could affect day-to-day activities and critical government operations."

9) **Prior or Related Legislation**

Assembly Bill 2421 (Low, 2024) proposed to makes changes to existing law relating to public employer prohibited activity or conduct and public employer-employee relations. This bill was held in the Senate Committee on Appropriations.

Assembly Bill 418 (Kalra, 2019) was substantially similar to Assembly Bill 3121 (Kalra, 2018), which proposed to establish an evidentiary privilege from disclosure for communications between a union agent and a represented employee or represented former employee. This bill died on the Senate inactive file.

Assembly Bill 3121 (Kalra, 2018) proposed to establish an evidentiary privilege from disclosure for communications between a union agent and a represented employee or represented former employee. This bill died on the Senate inactive file.

Assembly Bill 729 (Roger Hernández, 2013) proposed to provide a union agent, as defined, and a represented employee or represented former employee a privilege of refusing to disclose any confidential communication between the employee or former employee and the union agent while the union agent is acting in their representative capacity, except as specified. The former Governor vetoed this bill stating that:

> "*I don't believe it is appropriate to put communications with a union agent on equal footing with communications with one's spouse, priest, physician or attorney. Moreover, this bill could compromise the ability of employers to conduct investigations into workplace safety, harassment and other allegations."*

REGISTERED SUPPORT / OPPOSITION:

Support

Peace Officers Research Association of California (Sponsor)
California Faculty Association (Co-Sponsor)
California Community College Independents
California Association of Psychiatric Technicians
Orange County Employees Association
Professional Engineers in California Government

Opposition

Association of California School Administrators
Association of California Healthcare Districts
California Association of Joint Powers Authorities
California Association of Recreation and Park Districts
California Association of School Business Officials
California Chamber of Commerce
California County Superintendents
California School Boards Association
California Special Districts Association
California State Association of Counties
League of California Cities
Public Risk Innovation, Solutions, and Management

Rural County Representatives of California
School Employers Association of California
Urban Counties of California

Analysis Prepared by: Michael Bolden / P. E. & R. / (916) 319-3957

AB 340: Employer-employee relations: confidential communications.

Date	Result	Location	Ayes	Noes	Abstain/Absent	Motion
3/19/2025	P	ASM. P.E. & R.	6	0	1	Do pass and be re-referred to the Committee on [Appropriations] (PASS)

AYES: Alanis, Juan Boerner, Tasha Elhawary, Sade Garcia, Robert McKinnor, Tina Nguyen, Stephanie
NOES:
ABSTAIN/ABSENT: Lackey, Tom

March 12, 2025

The Honorable Patrick Ahrens
California State Assembly
State Capitol, Suite 6110
Sacramento, CA 95814

RE: **AB 340 (Ahrens) Employer-Employee Relations Confidential Communications.**
OPPOSE *(As Amended March 5, 2025)*

Dear Assembly Member Ahrens,

The League of California Cities (Cal Cities), California State Association of Counties (CSAC), California Special Districts Association (CSDA), Rural County Representatives of California (RCRC), Urban Counties of California (UCC), the Association of California Healthcare Districts (ACHD), the Association of California School Administrators (ACSA), the California School Boards Association (CSBA), the California Association of Joint Powers Authorities (CAJPA), Public Risk Innovation, Solutions, and Management (PRISM), the California Association of School Business Officials (CASBO), the California Association of Recreation and Park Districts (CARPD), California County Superintendents, and the School Employers Association of California (SEAC) write to inform you of our respectful opposition to your Assembly Bill (AB) 340. This bill would restrict an employer's ability to conduct internal investigations to the detriment of employees' and the public's safety and well-being, adding new costs and liability for public employers. Moreover, the substantive provisions of the bill create restrictions mirroring a privilege.

Previous Legislation and Previous Veto
Our concerns with AB 340 are consistent with the issues raised in response to previously introduced legislation, AB 2421 (Low, 2024), AB 729 (Hernandez, 2013), AB 3121 (Kalra, 2018) and AB 418 (Kalra, 2019). The issues are succinctly captured in the AB 729 veto message from Governor Brown, which states: "I don't believe it is appropriate to put communications with a union agent on equal footing with communications with one's spouse, priest, physician or attorney. Moreover, this bill could compromise the ability of employers to conduct investigations into workplace safety, harassment and other allegations."

New Costs and Added Liability for the State, Local Governments, and Schools
In order to conduct proper investigations that uphold the public's trust, protect against the misuse of public funds, and ensure the safety and well-being of both public employees and the public at large, it is critical that a public employer has the ability to interview all individuals with relevant information to ascertain the facts and understand the matter fully. AB 340 would increase investigation and litigation costs for the state as well as local governments and schools by creating incomplete investigations, since all appropriate employees with relevant information cannot be questioned. Costs and risks may also increase as conduct challenged as unlawful under the bill's provisions is adjudicated before the Public Employment Relations Board (PERB). For schools, this is a drain of Proposition 98 funding.

Inconsistent with PERB Decision
AB 340 states that its prohibition on employer questioning is intended to be consistent with, and not in conflict with, William S. Hart Union High School District (2018) PERB Dec. No. 2595. This is problematic for two reasons. First, the bill is inconsistent with that PERB decision. That decision engaged in a circumstantial analysis to determine whether employer questioning was prohibited or not, while weighing the employee's and the employer's interests. AB 340 goes far beyond that, forgoing any circumstantial analysis or weighing of interests. It categorically prohibits questioning of confidential employee representative communications, except for narrow, limited exceptions. Second, we are not aware of evidence that PERB is denying the interests of employees on this issue, raising the question of whether a legislative solution is warranted.

Expansion of New One-Sided Standard
AB 340 would create a de facto prohibition on employers requesting a court to compel disclosure of purportedly confidential communications, which is the same outcome as if the communication was privileged in those circumstances. This will have a significant impact on judicial and administrative proceedings.

Endangers Workplace Safety
AB 340 interferes with the ability to interview witnesses because it would prohibit public agencies from questioning any employee or "representative of a recognized employee organization, or an exclusive representative" about communications between an employee and a "representative of a recognized employee organization, or an exclusive representative." While AB 340 includes a narrow exception for criminal investigations, and provides that it does not supersede Gov. Code 3303, many necessary investigations are still subject to the bill's limitations, putting safety at risk.

This bill would hinder employees who wish to voluntarily report an incident or testify in front of necessary misconduct investigations since an employer would be prohibited from certain lines of questioning. It would also limit the ability of public employers to

carry out the requirements of recently enacted law, Senate Bill 553 (Cortese, 2023), which includes conducting investigations into workplace safety, harassment, and other allegations. As of January 1, 2025, SB 553 allows collective bargaining representatives standing to seek temporary restraining orders (TRO) in connection with workplace violence. AB 340 will create a problematic scenario wherein a TRO may be obtained but an employer could not fully investigate the underlying facts. AB 340 lacks guardrails to prevent potential conflicts of interest that could arise during employee safety issues.

Making matters worse, employers may not even know they are acting contrary to AB 340's restrictions by communicating with staff, because only the employee or the representative would know or could decide when a communication was made "in confidence." This could affect day-to-day activities and critical government operations.

For the reasons discussed above, the organizations listed below are respectfully opposed to AB 340. If you have any questions, please do not hesitate to contact our organizations' representatives directly.

Sincerely,

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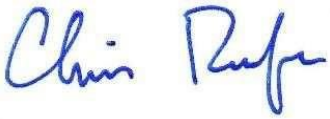

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FACT SHEET

AB 465 (Zbur) – Right to Fair Discipline

SUMMARY

AB 465 will ensure that city and county employees receive fair treatment by requiring that minimum standards for employee discipline and grievance procedures are included in Memorandums of Understanding (MOUs) for bargaining units governed under the Meyers-Milias-Brown Act (MMBA). These include provisions to guarantee progressive discipline practices, just cause protections against unfair termination and arbitrary workplace discipline, compensation protections for union representatives, and binding arbitration following the grievance process. In doing so, this bill will protect workers against unjust employer actions and bring their contracts up to the same standard as other public sector employees.

BACKGROUND

The MMBA established collective bargaining for California's local government employers and employees and provided that the governing body of a public agency must negotiate in good faith with representatives of recognized employee organizations regarding wages, hours, and conditions of employment. While the MMBA was a landmark win for public sector workers, it did not establish minimum requirements for Memorandums of Understanding (MOUs). Employees governed by the MMBA are only guaranteed a Skelly hearing, which allows them to appeal an adverse action after it has been taken. The ambiguity of the MMBA has led to MOUs that vary across the state and lack critical worker protections.

PROBLEM

One of the most significant issues caused by the absence of minimum requirements is the lack of a fair and standardized discipline process. While all employees governed by the MMBA have the right to appeal an adverse action, they are not guaranteed to receive notification ahead of an adverse action or to be given an opportunity to address their employer's concerns. This can result in situations where workers are blind-sided by an adverse action and their only recourse is through an appeal hearing. Even worse, under some contracts, a city manager has the authority to reverse rulings from the grievance process, creating a power imbalance that heavily favors the employer. These injustices foster an environment that empowers employers to take action or terminate employees without just cause.

Practices like progressive discipline and just cause requirements have become common labor standards and are included in union contracts across industries. Progressive discipline usually involves guarantees that an employee will receive notification of unsatisfactory performance and have an opportunity to address this issue before an employer can take disciplinary action. Just cause provisions protect employees from facing discipline or termination for arbitrary or unfair reasons.

SOLUTION

AB 465 requires that MOUs negotiated after January 1, 2026, and existing MOUs that an employee organization requests to renegotiate, include the following:

- Progressive discipline for employees facing adverse action by their employer
- An appeals process that culminates in final and binding arbitration
- Provision that disciplinary actions and terminations can only occur for just causes
- Reasonable paid time off without loss of benefits for designated representatives of employee organizations who are performing their role in the grievance process

SUPPORT

- AFSCME AFL-CIO (Sponsor)
- SEIU California (Sponsor)
- California Conference Board of the Amalgamated Transit Union
- California Conference of Machinists
- California Federation of Labor Unions AFL-CIO
- California Safety and Legislative Board of SMART – Transportation Division
- California School Employees Association
- California Teamsters Public Affairs Council
- Engineers and Scientists of California, IFPTE Local 20, AFL-CIO
- Orange County Employees Asssociation
- Unite Here International Union, AFL-CIO
- Utility Workers Union of America

FOR MORE INFORMATION

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Phone: (916) 319-2051

AMENDED IN ASSEMBLY MARCH 13, 2025

CALIFORNIA LEGISLATURE—2025–26 REGULAR SESSION

ASSEMBLY BILL No. 465

Introduced by Assembly Member Zbur

February 6, 2025

An act to amend ~~Section 86201 of the Government Code, relating to the Political Reform Act of 1974.~~ *Sections 3501 and 3506.5 of, and to add Section 3502.2 to, the Government Code, relating to public employment.*

LEGISLATIVE COUNSEL'S DIGEST

AB 465, as amended, Zbur. ~~Political Reform Act of 1974: gifts.~~ *Local public employees: memoranda of understanding.*

Existing law, the Meyers-Milias-Brown Act (act), authorizes local public employees, as defined, to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on matters of labor relations and defines various terms for these purposes. The act prohibits a public agency from, among other things, refusing or failing to meet and negotiate in good faith with a recognized employee organization. Existing law states that the Legislature finds and declares that the duties and responsibilities of local agency employer representatives under the act are substantially similar to the duties and responsibilities required under existing collective bargaining enforcement procedures and therefore the costs incurred by the local agency employer representatives in performing those duties and responsibilities under that act are not reimbursable as state-mandated costs.

This bill would require, on or after January 1, 2026, a memorandum of understanding between a public agency and a recognized employee

organization to include specified provisions including, among other things, a provision providing for a system of progressive discipline that grants due process to an employee when they are disciplined, upon the request of the recognized employee organization. The bill would define "progressive discipline" and "due process" for this purpose. The bill would specify that the refusal or failure to include those provisions in a memorandum of understanding upon request of the recognized employee organization constitutes refusing or failing to meet and negotiate in good faith for purposes of the above-described prohibition. By imposing new requirements on public agencies, this bill would impose a state-mandated local program.

The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

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 shall be made pursuant to these statutory provisions for costs mandated by the state pursuant to this act, but would recognize that a local agency or school district may pursue any available remedies to seek reimbursement for these costs.

~~The Political Reform Act of 1974 regulates lobbyists and lobbying firms and imposes various restrictions on public officials for the purpose of avoiding conflicts of interests. The act prohibits a lobbyist or lobbying firm from making gifts to specified individuals aggregating more than $10 in a calendar month. The act defines "gift" for these purposes.~~

~~This bill would make a nonsubstantive change to the definition of "gift".~~

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

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

SECTION 1. Section 3501 of the Government Code is amended to read:

3501. As used in this chapter:

(a) "Employee organization" means either of the following:

(1) Any organization that includes employees of a public agency and that has as one of its primary purposes representing those employees in their relations with that public agency.

(2) Any organization that seeks to represent employees of a public agency in their relations with that public agency.

(b) "Recognized employee organization" means an employee organization which has been formally acknowledged by the public agency as an employee organization that represents employees of the public agency.

(c) Except as otherwise provided in this subdivision, "public agency" means every governmental subdivision, every district, every public and quasi-public corporation, every public agency and public service corporation and every town, city, county, city and county and municipal corporation, whether incorporated or not and whether chartered or not. As used in this chapter, "public agency" does not mean a school district or a county board of education or a county superintendent of schools or a personnel commission in a school district having a merit system as provided in Chapter 5 (commencing with Section 45100) of Part 25 and Chapter 4 (commencing with Section 88000) of Part 51 of the Education Code or the State of California.

(d) "Public employee" means any person employed by any public agency, including employees of the fire departments and fire services of counties, cities, cities and counties, districts, and other political subdivisions of the state, excepting those persons elected by popular vote or appointed to office by the Governor of this state.

(e) "Mediation" means effort by an impartial third party to assist in reconciling a dispute regarding wages, hours and other terms and conditions of employment between representatives of the public agency and the recognized employee organization or recognized employee organizations through interpretation, suggestion and advice.

(f) "Board" means the Public Employment Relations Board established pursuant to Section 3541.

(g) "Progressive discipline" means a written preventative, corrective, or disciplinary action providing an employee with notice of departmental expectations, an opportunity to learn from prior mistakes, and correct and improve future work performance.

(h) "Due process" means a system of discipline in which employees are given notice of the factual basis of their alleged misconduct or performance deficiencies, including the penalty, effective date of the action, causes for discipline, factual allegations of misconduct, predeprivation rights, as required by the California Supreme Court in Skelly v. State Personnel Board (1975) 15 Cal.3d 194, also known as Skelly rights, the right to appeal the action, and a reasonable opportunity to respond to the allegations before the imposition of discipline.

SEC. 2. Section 3502.2 is added to the Government Code, to read:

3502.2. (a) Notwithstanding any other law, a memorandum of understanding entered into on or after January 1, 2026, between a public agency and a recognized employee organization shall include, upon the request of the recognized employee organization, all of the following provisions:

(1) A provision providing for a system of progressive discipline that grants due process to an employee when they are disciplined. "Due process," as that term is used in this subdivision, includes a just cause standard.

(2) A provision providing for a grievance procedure that culminates with compulsory final and binding arbitration of all disputes arising over the interpretation or application of the memorandum of understanding.

(3) A provision stating that an employee designated as a representative of the recognized employee organization shall have reasonable paid time off without loss of compensation or other benefits when they investigate a potential grievance and participate in the grievance process.

(b) If the parties' current memorandum of understanding does not address these provisions, and upon the request of a recognized employee organization, a public agency shall promptly participate in collective bargaining to adopt the provisions required by this section. The parties shall include the provisions required by this section as an addendum to the existing memorandum of understanding. Thereafter, the provisions required by this section shall be addressed in a single memorandum of understanding if requested by the recognized employee organization.

SEC. 3. Section 3506.5 of the Government Code is amended to read:

3506.5. A public agency shall not do any of the following:

(a) Impose or threaten to impose reprisals on employees, to discriminate or threaten to discriminate against employees, or otherwise to interfere with, restrain, or coerce employees because of their exercise of rights guaranteed by this chapter.

(b) Deny to employee organizations the rights guaranteed to them by this chapter.

(c) Refuse or fail to meet and negotiate in good faith with a recognized employee organization. For purposes of this subdivision, knowingly providing a recognized employee organization with inaccurate information regarding the financial resources of the public employer, whether or not in response to a request for information, *or refusing or failing to include in a memorandum of understanding the provisions required by Section 3502.2,* constitutes a refusal or failure to meet and negotiate in good faith.

(d) Dominate or interfere with the formation or administration of any employee organization, contribute financial or other support to any employee organization, or in any way encourage employees to join any organization in preference to another.

(e) Refuse to participate in good faith in an applicable impasse procedure.

SEC. 4. The Legislature finds and declares that Sections 1 to 3, inclusive, of this act, amending Sections 3501 and 3506.5 of, and adding Section 3503.2 to, the Government Code, address a matter of statewide concern rather than a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Sections 1 to 3, inclusive, of this act apply to all cities, including charter cities.

SEC. 5. No reimbursement shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other law.

~~SECTION 1. Section 86201 of the Government Code is amended to read:~~

~~86201. For purposes of this article, "gift" means a gift made directly or indirectly to any state candidate, elected state officer, or legislative official, or to an agency official of any agency~~

~~required to be listed on the registration statement of the lobbying firm or the lobbyist employer of the lobbyist.~~

O

Date of Hearing: April 2, 2025

ASSEMBLY COMMITTEE ON PUBLIC EMPLOYMENT AND RETIREMENT
Tina S. McKinnor, Chair
AB 465 (Zbur) – As Amended March 13, 2025

SUBJECT: Local public employees: memoranda of understanding

SUMMARY: Requires a memorandum of understanding (MOU) between a local public agency and a recognized employee organization (REO) to include, among other things, a provision that provides for a system of progressive discipline that grants due process to an employee when they are disciplined, upon request of the REO, among other provisions. Specifically, **this bill:**

1) Requires a MOU entered into on or after January 1, 2026, between a local public agency and a REO to include, upon request of the REO, a provision:

    a) Providing for a system of progressive discipline that grants due process to an employee when disciplined, and establishes "due process" for this purpose to include just cause;

    b) Providing for a grievance procedure that culminates with compulsory final and binding arbitration of all disputes arising over the interpretation or application of the MOU; and,

    c) Stating that an employee designated as a representative of the REO must have reasonable paid time off without loss of compensation or other benefits when they investigate a potential grievance and participate in the grievance process.

2) Amends the Meyers-Milias-Brown Act (MMBA) to require a public agency to promptly participate in collective bargaining to adopt the above-described provisions upon request of the REO, if the parties' current MOU does not address those matters; that the provisions must be included as an addendum to the existing MOU; and thereafter, the provisions must be addresses in a single MOU, if requested by the REO.

3) Amends the MMBA to include, among existing public agency prohibitions, a prohibition from refusing or failing to include in a MOU the provisions in 2), above.

4) Defines the following terms for these purposes:

    a) "Progressive discipline" to mean a written preventative, corrective, or disciplinary action providing an employee with notice of departmental expectations, an opportunity to learn from prior mistakes, and correct and improve future work performance.

    b) "Due process" to mean a system of discipline in which employees are given notice of the factual basis of their alleged misconduct or performance deficiencies, including the penalty, effective date of the action, causes for discipline, factual allegations of

misconduct, predeprivation rights, as required pursuant to *Skelly v. State Personnel Board* (1975) 15 Cal.3d 194, i.e., "Skelly rights," the right to appeal the action, and a reasonable opportunity to respond to the allegations before the imposition of discipline.

5) Includes legislative findings and declarations for these purposes, and provisions relating to reimbursement for costs.

EXISTING LAW:

1) Governs collective bargaining in the private sector under the federal National Labor Relations Act (NLRA) but leaves it to the states to regulate collective bargaining in their respective public sectors. (Sections 151 *et seq.*, Title 29, United States Code.)

   While the NLRA and the decisions of its National Labor Relations Board often provide persuasive precedent in interpreting state collective bargaining law, public employees have no collective bargaining rights absent specific statutory authority establishing those rights.

2) Provides several statutory frameworks under California law to provide public employees collective bargaining rights, govern public employer-employee relations, and limit labor strife and economic disruption in the public sector through a reasonable method of resolving disputes regarding wages, hours, and other terms and conditions of employment between public employers and recognized public employee organizations or their exclusive representatives. These include the MMBA which governs local government public employer-employee relations. (Sections 3500 *et seq.*, Government (Gov.) Code.)

3) Establishes the Public Employment Relations Board (PERB), a quasi-judicial administrative agency charged with administering certain statutory frameworks governing employer-employee relations, resolving disputes, and enforcing the statutory duties and rights of public agency employers and employee organizations, but provides the City and County of Los Angeles a local alternative to PERB oversight. (Sections 3541 *et seq.*, Gov. Code.)

4) Does not cover California's public transit districts by a common collective bargaining statute. Instead, while some transit agencies are subject to the MMBA, the majority of transit agencies are subject to labor relations provisions that are found in each district's specific P.U.C. enabling statute, in joint powers agreements, or in articles of incorporation and bylaws.

   These provisions provide employees with basic rights to organization and representation, but do not define or prohibit unfair labor practices. Unlike other California public agencies and employees, these transit agencies and their employees have no recourse to the PERB. Instead, they must rely upon the courts to remedy any alleged violations. Additionally, they may be subject to provisions of the federal Labor Management Relations Act of 1947 and the 1964 Urban Mass Transit Act (now known as the Federal Transit Act).

5) Requires public agencies to allow a reasonable number of their employees who are representatives of REOs reasonable time off without loss of compensation or other benefits when they are participating in certain prescribed activities, among other provisions. (Section 3505.3, Gov. Code.)

FISCAL EFFECT: Unknown. This bill is flagged as fiscal by Legislative Counsel.

COMMENTS:

1) **Background**

Information provided by the author states, "[t]he disciplinary process for employees varies from contract-to-contract. Most [MOU] include clear expectations for employees that allow an employee, whenever possible, to improve their performance through positive, non-punitive corrective measures short of formal disciplinary action. The steps that a supervisor takes to improve work performance is often referred to as 'progressive discipline.' This is usually standard for most negotiated union contracts. Yet, some MOUs do not currently offer these protections to their public employees.

"Under the [MMBA], there are no mandatory conditions, such as 'just cause' termination or binding arbitration that must be included in collective bargaining agreements. In fact, arbitration itself is not required to resolve disagreements over the terms of an MOU. When the MMBA was passed by the legislature in 1968, those bargaining units that were already organized with an exclusive bargaining representative won the right to collectively bargain, but some of the contracts that existed pre-MMBA failed to include fair disciplinary procedures that are typically enjoyed by most unionized employees, such as progressive discipline, and arbitration decisions that are binding. Over five decades have passed since the law was enacted and some contracts still do not include language that contains fair disciplinary policies and procedures. This status quo leads to situations where an employee can challenge a disciplinary punishment levelled against the individual all the way up to an impartial arbitrator but leaves the city/county manager or governing body free to ignore the arbitrator's report. It is unacceptable that even one employee could prove through a grueling arbitration process that they were disciplined unfairly, and their employer could still uphold the punishment. Furthermore, MOU's that lack disciplinary procedures are rife with multiple active unfair labor practice (ULP) charges and grievances.

2) **Need for this Bill**

According to the author, "a universal and fair standard for employee discipline across civil service should allow employees to receive notice about their conduct and opportunities to improve their performance in California. A handful of states already require a minimum floor of provisions in collectively bargained contracts in state statutes and local ordinances, which

include just cause, grievance procedures, and an appeals process that results in final and binding arbitration."

3) **Procedural Due Process Rights of Public Employees – Skelly Rights**

The United States (U.S.) Constitution provides that "… nor shall any State deprive any person of life, liberty, or property, without due process of law."[1] The California Constitution provides that "… a person may not be deprived of life, liberty, or property without due process of law […]."[2] Generally, due process is a constitutional construct that consists of substantive rights, i.e., legal rights, and procedural rights, i.e., fairness rights [notice, hearing/opportunity to be heard] afforded to individuals (and businesses).[3] In sum, due process provides rights to make legal claims and be heard in a court of law or other competent adjudicative forum regarding those claims.

Procedural due process also applies to permanent public employees to protect their employment rights, including those relating to discipline. Here, public employees have a right to a notice of disciplinary action, a copy of the materials on which the action is based, and an opportunity for the employee to respond to those charges to an impartial reviewer prior to discipline or termination being imposed. This pre-disciplinary hearing process for public employees is commonly referred to as a "*Skelly Hearing*" following a seminal California Supreme Court decision that involved a public employee – surnamed *Skelly* – in which the court held that permanent public employee status is a constitutionally protected property interest and because the employee has a protected property right to their job, they cannot be deprived of it without due process.[4] Thus, a preliminary hearing must take place prior to the imposition of discipline upon, or termination of, the employee.

In the public sector, generally, employees who have a property interest in continued employment are entitled to due process upon a proposed termination (or deprivation) of employment. The reason that these employees have these protections is because they have successfully completed a probationary period during which they were subject to release.[5] When permanency is acquired, "permanent" employees can be dismissed only for cause as provided by the authorizing procedures. However, due process protections are not afforded to all employees. Those who are "at-will," i.e., serve at the pleasure of the appointing authority; do not have a justified expectation in continued employment; and, "at-will" employees, may be terminated at the will of either party on notice to the other."[6] In addition, those who are probationary and non-tenured employees, also do not have a property interest in continued employment and may be released without cause during their probationary period.[7] However, there are some exceptions. For

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[1] Fourteenth Amendment, U.S. Constitution.
[2] Section 7, Art. I, Cal. Const.
[3] Fifth Amendment (Due Process) and Fourteenth Amendment (Equal Protection), respectively, U.S. Const.
[4] *Skelly v. State Personnel Bd.* (1975) 15 Cal.3d 194.
[5] *Skelly, id.*
[6] See Sections 2920, *et seq.*, of the Labor Code.
[7] *Lubey v. City and County of San Francisco* (1979) 98 Cal.App.3d 340, 346

example, classified school employees of school districts have a right to a pre-termination hearing if dismissed for cause or unsatisfactory performance during the school year, but not otherwise. Others who, in general, do not have such rights are temporary and substitute employees when they are hired to fill in for limited-term projects or periods. Employees who receive written or oral reprimands are not entitled to *Skelly* rights because a reprimand, in and of itself, does not entail the loss of property.

It is acknowledged, however, that precise due process procedures vary regarding employment termination (or deprivation) depending on statute, practice, and other factors. Given that the purposes of the MMBA are well-established, in the context of this bill where "due process" and "progressive discipline" are defined (and where "progressive discipline," nonetheless, is a method of "discipline") where it is closely and reasonably entwined as to their application and effect, this provision may be viewed as maintaining the state's fundamental interests in the continuity of harmonious and cooperative labor relations between a local public employer and employee organization representing employees under that act.

4) **Prescribed Mandatory Item(s) in a MOU and Collective Bargaining**

As previously discussed, this bill requires an MOU entered into on or after January 1, 2026, between a local public agency and a REO to include certain prescribed provisions, at the request of the REO. Among these is a requirement where an employee designated as a representative of the REO must be given time of without loss of compensation or other benefits to investigate a potential grievance and participate in the grievance process.[8]

Historically, time off without loss of compensation or benefits for an employee designated as a representative of an employee organization to represent or participate in certain employee organization activities is commonly referred to as "release time." Currently, the MMBA requires the granting of such time by a local public employer for specific activities, including "[t]estifying or appearing as the designated representative of the employee organization in matters before a personnel or merit commission."[9] But, it is noted that matters before a personnel or merit commission where a designated REO representative is testifying (or appearing) may or may not solely be limited to a grievance matter, as personnel or merit commissions meet to address other matters in addition to grievances.

Arguably, the aforementioned MMBA provision could be construed such that "a matter" means "any matter;" therefore, including "… time off… to investigate a potential grievance or participate in a grievance process," as provided in this bill. Under this view, some may ponder the necessity of the provision in the bill. However, because the construing of that MMBA phrase may be arguable and therefore, questionable, this bill offers an explicit "release time" guarantee as to the specific activity removing any interpretation doubt as to the existing MMBA "release time" provision.

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[8] See Section 3502.2 of this bill.
[9] Section 3505.3, Gov. Code, and more specifically, paragraph (3), subdivision. (a).

Finally, it is acknowledged that this particular matter (as well as others not discussed in detail here) is more likely than not, subject to bargaining under the MMBA, and legislatively mandating the prescribed item(s) that, historically, are subject to bargaining circumvent the collective bargaining process. However, to the extent that a local public employer interprets the existing MMBA "release time" provisions as to not require time off for the specific activities proposed by this bill; there is a question as to the interpretation of "…a matter;" choose to not bargain the matter; or, holds as hostage other items subject to bargaining in exchange for REO concessions regarding "release time" for these activities, the legislative mandating of this provision (as well as others not discussed in detail here) in a MOU should be considered.

5) **Additional Information for the Committee**

The committee is informed that the author may amend this bill in the future to modify the definition of "progressive discipline" relating to the *Skelly* reference, among other various changes, including technical and nonsubstantive.

6) **Statement by the Author**

"[This bill] will ensure that city and county employees receive fair treatment by requiring that minimum standards for employee discipline and grievance procedures are included in [MOUs] for bargaining units governed under the [MMBA]. These include provisions to guarantee progressive discipline practices, just cause protections against unfair termination and arbitrary workplace discipline, compensation protections for union representatives, and binding arbitration following the grievance process. In doing so, this bill will protect workers against unjust employer actions and bring their contracts up to the same standard as other public sector employees."

7) **Comments by Supporters**

Among other things, the American Federation of State, County and Municipal Employees, AFL-CIO states, "[o]ther states such as Minnesota, New Jersey, Ohio, Pennsylvania, and Washington require a minimum floor of provisions to be included in a negotiated collective bargaining agreement for state employees. For example, in Washington, statutes require that all contracts provide for a grievance procedure that culminates with final and binding arbitration of all disputes arising over the interpretation or application of a collective bargaining agreement, among other disciplinary provisions. (Revised Code of Washington (RCW) 41.80.030.) The disciplinary process for employees varies from contract-to-contract. Most [MOU] include clear expectations for employees that allows an employee, whenever possible, to improve their performance through positive, non-punitive corrective measures short of formal disciplinary action. The steps that a supervisor takes to improve work performance is often referred to as "progressive discipline." This is usually standard for most negotiated union contracts. Yet, some MOUs do not currently offer these protections to their public employees, and where formal corrective and disciplinary provisions are not included, the public agency is rife with unfair labor practices and disciplinary appeals. There should be a universal and fair standard for employee discipline across civil service that allow for an employee to be given notice about their conduct

with opportunities to improve their performance in the state of California, [and this bill provides that guarantee]."

The Service Employees International Union, California, states, among other things that, "[a]ll MOUs for local government employees should include clear expectations for opportunities to improve performance before formal disciplinary action. As local governments struggle to recruit and retain staff, practices like progressive discipline and informal dispute resolution can greatly improve workplace culture. Local governments should strive to develop employees who want to remain in public service despite more lucrative positions elsewhere. [This bill] would provide a universal and fair standard for employee discipline across all local governments," and "… allow employees to improve their performance and continue to develop as a public servant."

The California Federation of Labor Unions, AFL-CIO and other supporters offer, in addition to other supportive commentary, statements similar to those of author and other supporters.

8) **Comments by Opponents**

A coalition of local government entity representatives, i.e., cities, counties, special districts, rural counties, and urban counties express that the California Supreme Court has addressed the issue of public employee discipline in the *Skelly* decision.

Among other things they state that, "… this bill would require… an MOU include a "grievance procedure" that culminates with compulsory final and binding arbitration for all disputes over the interpretation or application of the MOU. While binding arbitration is one common means of resolving labor disputes, it remains highly controversial [in] many contexts – most notably [in] employee discipline […]. [This] bill would further upset local bargaining by mandating unlimited amounts of paid released time, for an unlimited number of union representatives, to investigate potential grievances, the scope and extent of which – and any possible limits – is deeply unclear. While released time is an important part of local labor relations, reflected in the MMBA, the specific amount and contours of paid released time is presently negotiated at the bargaining table – as befits an item with budgetary and staffing implications that will vary from community to community," and, "…this bill would deprive local parties of the ability to negotiate their own specific practices sensitive to local needs."

In addition, "[while] the concept [of progressive discipline] is widely used to ensure procedural due process, it is not appropriate or required in all circumstances. For example, procedural due process is not generally required for disciplinary procedures that do not result in a loss of the employee's pay or benefits including written reprimands; transfer without a loss of pay; negative performance evaluation; [or,] economic layoff. However, this bill would impose [and dramatically expand the scope of existing law regarding] progressive discipline in all of these instances," when "… [it] is put into practice on a case-by-case basis depending upon the employee's conduct because progressive discipline may not make sense for particularly unacceptable work performance, egregious conduct, or situations where progressive discipline is

unlikely to address the issue. There is concern that particularly egregious behavior may not be able to be dealt with in proportional manner." Further, "[the] definition is also not clear as to what it means to "correct" future work performance and what is included in a "notice of departmental expectations. [This] lack of [clarity] will result in litigation and challenging implementation," and, "will also be incredibly difficult and disruptive for employees subject to a civil service commission. Adopting a grievance procedure to investigate an alleged violation of an MOU is considered a best practice," and "[the] PERB has the authority to hear and determine any complaints alleging violations of the MMBA or any rules and regulations concerning employee relations."

9) **Prior or Related Legislation**

Chapter 913, Statutes of 2022 (Assembly Bill 2413, Carrillo), subject to certain specifies exceptions, prohibits the suspension, demotion, or dismissal without pay of a permanent classified employee employed by a school district or community college district who timely requests a hearing on charges against the employee and before a decision is rendered on the matter, among other provisions.

Chapter 563, Statutes of 2021 (Assembly Bill 615, Rodriguez) provides minimum rights, including due process, for specified medical, dental, and resident physician subspecialty personnel, including trainees, who work for a higher education employer, as provided, among other provisions.

Assembly Bill 2114 (Rodriguez, 2020) proposed to require minimum rights, including due process, for specified nonprobationary employees working for a higher education employer, as provided, among other provisions. This bill was vetoed by the Governor stating that:

> *"These residents and interns represent our State's pipeline of medical professionals, and they have been on the frontlines of the COVID-19 pandemic. They deserve an opportunity to challenge a disciplinary action or termination of employment that may be wrongful and that could potentially jeopardize their professional career. However, I believe that the definition of "academic" and "clinical" in this bill is too narrow and does not fully consider the various criteria used in determining a resident's readiness to safely practice."*

Chapter 854, Statutes of 2017 (Senate Bill 201, Skinner) amended the Higher Education Employer-Employee Relations Act to provide collective bargaining rights to student employees at the University of California (UC), California State University (CSU), and Hastings College of Law, whose employment is contingent on their status as students.

REGISTERED SUPPORT / OPPOSITION:

Support

American Federation of State, County and Municipal Employees, AFL-CIO *(Sponsor)*
Service Employees International Union, California *(Co-Sponsor)*

California Conference Board of the Amalgamated Transit Union
California Conference of Machinists
California Federation of Labor Unions, AFL-CIO
California Safety and Legislative Board of Sheet Metal Air Rail and Transportation – Transportation Division
California School Employees Association, AFL-CIO
California Teamsters Public Affairs Council
Engineers and Scientists of California, IFPTE Local 20, AFL-CIO
Unite Here, AFL-CIO
Utility Workers Union of America

Opposition

California Special Districts Association
California State Association of Counties
League of California Cities
Rural County Representatives of California
Urban Counties of California

Analysis Prepared by: Michael Bolden / P. E. & R. / (916) 319-3957

AB 465: Local public employees: memoranda of understanding.

Date	Result	Location	Ayes	Noes	Abstain/Absent	Motion
4/2/2025	P	ASM. P.E. & R.	5	0	2	Do pass and be re-referred to the Committee on [Appropriations] (PASS)

AYES: Boerner, Tasha Elhawary, Sade Garcia, Robert McKinnor, Tina Nguyen, Stephanie
NOES:
ABSTAIN/ABSENT: Alanis, Juan Lackey, Tom

March 27, 2025

The Honorable Tina McKinnor
Chair, Assembly Committee on Public Employment and Retirement
1020 N Street, Room 153
Sacramento, CA 95814

RE: **AB 465 (Zbur) Local public employees: memoranda of understanding.**
OPPOSE *(As Amended March 13, 2025)*

Dear Assembly Member McKinnor,

The League of California Cities (Cal Cities), California State Association of Counties (CSAC), California Special Districts Association (CSDA), Rural County Representatives of California (RCRC), and Urban Counties of California (UCC) write to inform you of our respectful opposition to Assembly Bill (AB) 465. This bill proposes significant changes to the Meyers-Milias-Brown Act (MMBA) which would decrease accountability for law enforcement officers and other public employees, increase local government costs, and disrupt the stability of collective bargaining statewide.

In 1975, the *California Supreme Court in Skelly v. State Personnel Board (1975) 15 Cal.3d 194,* made clear that a local agency may not discipline an employee (except in certain very limited circumstances) without affording the employee procedural due process. Procedural due process includes certain steps that ensure that the employee has adequate notice, and that the employer is acting reasonably. This bill would go far beyond codifying *Skelly v. State Personnel Board* by requiring binding arbitration and expanding and redefining "progressive discipline" – among other things.

Most dramatically, this bill would require that an MOU include a "grievance procedure" that culminates with *compulsory final and binding arbitration* for all disputes over the interpretation or application of the MOU. While binding arbitration is one common means of resolving labor disputes, it remains highly controversial many contexts – most notably employee discipline. The Attorney General's Racial and Identity Profiling Advisory Board (RIPA) has studied the effect of binding arbitration on policing practices, and noted that:

> "[U]sing arbitration for peace officers' disciplinary appeals raises accountability concerns. According to policing scholars, arbitration almost exclusively reduces disciplinary penalties for officers guilty of misconduct. Scholars have also found arbitration also allows for third parties who may not be from the community to make final disciplinary decisions that overturn police supervisors' decisions or oppose civilian oversight entities. According to scholars, arbitrators can reinstate fired officers, sometimes with back pay...According to researchers, the tendency for arbitrators to side with officers is likely, because police officers and unions often have some level of influence over the selection of arbitrators."[1]

The Independent Police Auditor for the City of Palo Alto recently examined the role of binding arbitration in responding to excessive force incidents, and similarly concluded that "Major Reduction of the Discipline by the Arbitrator…Shows the Structural and Practical Defects of Such a System." The auditor's report noted that other common labor dispute resolution mechanisms, such as an independent civil service commission or non-binding arbitration subject to judicial review, would promote better accountability.[2] While these studies both arose in the law enforcement context, the same accountability concerns may arise for employees entrusted with other critical public functions, such as child welfare, public safety, and management of public funds.

Moreover, binding arbitration provisions are presently negotiated at the bargaining table, where the specific needs of each community and bargaining unit, and the potential consequences and tradeoffs can be discussed and resolved by the affected parties. This bill would deprive all parties at the table of the ability to negotiate and agree upon the mechanisms that work best for their community.

The bill would further upset local bargaining by mandating unlimited amounts of paid released time, for an unlimited number of union representatives, to investigate *potential* grievances, the scope and extent of which – and any possible limits – is deeply unclear. While released time is an important part of local labor relations, reflected in the MMBA, the specific amount and contours of paid released time is presently negotiated at the bargaining table – as befits an item with budgetary and staffing implications that will vary from community to community. As above, this bill would deprive local parties of the ability to negotiate their own specific practices sensitive to local needs.

Additionally, the bill attempts to redefine and expand "progressive discipline" in a manner that is both unclear and actively harmful to good management and labor peace. As currently understood, progressive discipline is a system of imposing increasingly severe disciplinary actions on an employee's continued failure to meet performance standards or to conform their conduct to employer policies, rules, and regulations. While the concept of "progressive discipline" is widely used to ensure procedural due process, it is not appropriate or required in all circumstances.

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[1] https://oag.ca.gov/system/files/media/ripa-board-report-2024.pdf

[2] https://www.cityofpaloalto.org/files/assets/public/v/1/police-department/accountability/ipa-reports/independent-police-auditors-report-and-papd-use-of-force-report-for-second-half-of-2023.pdf

For example, procedural due process is not generally required for disciplinary procedures that do not result in a loss of the employee's pay or benefits including written reprimands; transfer without a loss of pay; negative performance evaluation; economic layoff. However, this bill would impose progressive discipline in all of these instances.

Progressive discipline is put into practice on a case-by-case basis depending upon the employee's conduct because progressive discipline may not make sense for particularly unacceptable work performance, egregious conduct, or situations where progressive discipline is unlikely to address the issue.

The bill dramatically expands the scope of existing law and would prohibit non-progressive discipline, particularly regarding at-will and probationary employees. There is concern that particularly egregious behavior may not be able to be dealt with in proportional manner.

AB 465 would also define "progressive discipline" as a "written preventative, corrective, or disciplinary action providing an employee with notice of departmental expectations, an opportunity to learn from prior mistakes, and correct and improve future work performance." The definition is problematic because it contains vague phrases such as "an opportunity to learn from prior mistakes." The definition is also not clear as to what it means to "correct" future work performance and what is included in a "notice of departmental expectations?" This lack of clarify will result in litigation and challenging implementation.

This will also be incredibly difficult and disruptive for employees subject to a civil service commission. Many local government employees have a right to a Civil Service Commission hearing for needs improvement evaluations, letters of reprimand, suspensions, demotions, and terminations. Commission operates hearings on any level of discipline much like a multi-day civil trial, with each party represented by an attorney before a hearing body. These hearings consume an enormous amount of time and resources, and potentially having 4-5 different hearings for a single employee at various levels of discipline before moving toward termination is untenable.

Adopting a grievance procedure to investigate an alleged violation of an MOU is considered a best practice. The PERB has the authority to hear and determine any complaints alleging violations of the MMBA or any rules and regulations concerning employee relations. We are concerned how this may conflict with PERB's authority.

We are entirely aligned with the importance of respecting the due process rights of local government employees. With respect, this bill is not required in order to uphold and guarantee those rights.

For the reasons discussed above, the organizations listed below are respectfully opposed to AB 465. If you have any questions, please do not hesitate to contact our organizations' representatives directly.

Sincerely,

Johnnie Piña
Legislative Advocate
League of California Cities
jpina@calcities.org

Sarah Dukett
Policy Advocate
Rural County Representatives of California
sdukett@rcrcnet.org

Eric Lawyer
Legislative Advocate
California State Association of Counties
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Aaron Avery
Director of State Legislative Affairs
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Jean Hurst
Legislative Representative
Urban Counties of California
jkh@hbeadvocacy.com

CC:

The Honorable Rich Chavez Zbur
Honorable Members, Assembly Committee on Public Employment and Retirement
Michael Bolden, Principal Consultant, Assembly Committee on Public Employment and Retirement
Lauren Prichard, Policy Consultant, Assembly Republican Caucus

Assembly Bill 1109

Union Agent and Represented Worker Evidentiary Privilege

Assembly Member Ash Kalra

SUMMARY

Assembly Bill (AB) 1109 would establish an evidentiary privilege to prohibit the disclosure of confidential communications between an employee and their union representative.

BACKGROUND

Privilege is an exclusionary rule of evidence that protects certain classes of communications from disclosure to opposing parties and entry into evidence in legal proceedings. The California Evidence Code currently contains a number of specific privileges for certain communications, including those between spouses, attorney and client, doctor and patient, clergy and penitent, domestic violence counselor and victim of domestic violence, and sexual assault counselor and victim of sexual assault.

Just as the doctor and patient privilege is designed to foster open and honest communication between a patient and their physician, AB 1109 seeks to encourage open and honest communication between a represented employee and their union agent. In instances when an employee faces adversarial grievance or disciplinary proceedings, the represented employee should be free to discuss these sensitive matters with the union agent openly and in confidence in order to permit the union agent to best represent the employee.

The privilege AB 1109 would create is evidentiary in nature and may only be invoked in a formal judicial, administrative, or arbitration proceeding. Both the union agent and the represented employee may invoke the privilege and refuse to disclose the communication. If the employee waives the communication, the union agent may still refuse to disclose because disclosure may adversely affect the union agent's other represented employees. The privilege established in this bill would not apply to criminal proceedings.

At least two other states, Illinois and Maryland, have enacted legislation establishing privilege for communications between an employee and their union representative.

In addition, the State of Alaska has established such a privilege for public employees in the *Petersen v. State of Alaska*, 280 P.3d 559 (Sup. Ct. Alaska, 2012) decision. The ruling stated, "Based on the strong interest in confidential union-related communications and the statutory protection against unfair labor practices, we hold [Alaska Public Employment Relations Act] PERA impliedly provides the State's union employees a union-relations privilege."

SOLUTION

AB 1109 would add union agent and represented worker as a recognized statutory evidentiary privilege to existing types of communications deemed privileged.

By allowing evidentiary privilege between workers and union representatives, we can help ensure the safe, private, and full disclosure of workplace concerns and needs. These communications focus on workers' rights and support California's fair employment standards.

SPONSORS

California Federation of Labor Unions

CONTACT

Zena Hallak, Communications Director
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(916) 319-2025

ASSEMBLY BILL No. 1109

Introduced by Assembly Member Kalra
(~~Coauthor:~~*Coauthors:* Assembly ~~Member Mark González~~*Members Garcia, Mark González, Ortega, Rogers, and Schiavo*)

February 20, 2025

An act to amend Sections 912 and 917 of, and to add Article 9.5 (commencing with Section 1048) to Chapter 4 of Division 8 of, the Evidence Code, relating to privilege.

LEGISLATIVE COUNSEL'S DIGEST

AB 1109, as introduced, Kalra. Evidentiary privileges: union agent-represented worker privilege.

Existing law governs the admissibility of evidence in court proceedings and generally provides a privilege as to communications made in the course of certain relations, including the attorney-client, physician-patient, and psychotherapist-patient relationship, as specified. Under existing law, the right of any person to claim those evidentiary privileges is waived with respect to a communication protected by the privilege if any holder of the privilege, without coercion, has disclosed a significant part of the communication or has consented to a disclosure.

This bill would establish a privilege between a union agent, as defined, and a represented employee or represented former employee to refuse to disclose any confidential communication between the employee or former employee and the union agent made while the union agent was acting in the union agent's representative capacity, except as specified. The bill would permit a represented employee or represented former employee to prevent another person from disclosing a privileged communication, except as specified. The bill would further provide that

this privilege may be waived in accordance with existing law and does not apply in criminal proceedings.

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

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

SECTION 1. Section 912 of the Evidence Code is amended to read:

912. (a) Except as otherwise provided in this section, the right of any person to claim a privilege provided by Section 954 (lawyer-client privilege), 966 (lawyer referral service-client privilege), 980 (privilege for confidential marital communications), 994 (physician-patient privilege), 1014 (psychotherapist-patient privilege), 1033 (privilege of penitent), 1034 (privilege of clergy member), 1035.8 (sexual assault counselor-victim privilege), 1037.5 (domestic violence counselor-victim privilege), ~~or~~ 1038 (human trafficking caseworker-victim ~~privilege)~~ *privilege), or 1048 (union agent-represented worker privilege)* is waived with respect to a communication protected by the privilege if any holder of the privilege, without coercion, has disclosed a significant part of the communication or has consented to disclosure made by anyone. Consent to disclosure is manifested by any statement or other conduct of the holder of the privilege indicating consent to the disclosure, including failure to claim the privilege in any proceeding in which the holder has legal standing and the opportunity to claim the privilege.

(b) Where two or more persons are joint holders of a privilege provided by Section 954 (lawyer-client privilege), 966 (lawyer referral service-client privilege), 994 (physician-patient privilege), 1014 (psychotherapist-patient privilege), 1035.8 (sexual assault counselor-victim privilege), 1037.5 (domestic violence counselor-victim privilege), ~~or~~ 1038 (human trafficking caseworker-victim privilege), *or 1048 (union agent-represented worker privilege)* a waiver of the right of a particular joint holder of the privilege to claim the privilege does not affect the right of another joint holder to claim the privilege. In the case of the privilege provided by Section 980 (privilege for confidential marital communications), a waiver of the right of one spouse to claim the

privilege does not affect the right of the other spouse to claim the privilege.

(c) A disclosure that is itself privileged is not a waiver of any privilege.

(d) A disclosure in confidence of a communication that is protected by a privilege provided by Section 954 (lawyer-client privilege), 966 (lawyer referral service-client privilege), 994 (physician-patient privilege), 1014 (psychotherapist-patient privilege), 1035.8 (sexual assault counselor-victim privilege), 1037.5 (domestic violence counselor-victim privilege), ~~or~~ 1038 (human trafficking caseworker-victim privilege), *or 1048 (union agent-represented worker privilege)* when disclosure is reasonably necessary for the accomplishment of the purpose for which the lawyer, lawyer referral service, physician, psychotherapist, sexual assault counselor, domestic violence counselor, or human trafficking caseworker was consulted, is not a waiver of the privilege.

SEC. 2. Section 917 of the Evidence Code is amended to read:

917. (a) If a privilege is claimed on the ground that the matter sought to be disclosed is a communication made in confidence in the course of the lawyer-client, lawyer referral service-client, physician-patient, psychotherapist-patient, clergy-penitent, marital or domestic partnership, sexual assault counselor-victim, domestic violence counselor-victim, ~~or~~ human trafficking caseworker-victim relationship, *or union agent-represented worker relationship,* the communication is presumed to have been made in confidence and the opponent of the claim of privilege has the burden of proof to establish that the communication was not confidential.

(b) A communication between persons in a relationship listed in subdivision (a) does not lose its privileged character for the sole reason that it is communicated by electronic means or because persons involved in the delivery, facilitation, or storage of electronic communication may have access to the content of the communication.

(c) For purposes of this section, "electronic" has the same meaning provided in Section 1633.2 of the Civil Code.

SEC. 3. Article 9.5 (commencing with Section 1048) is added to Chapter 4 of Division 8 of the Evidence Code, to read:

Article 9.5. Union Agent-Represented Worker Privilege

1048. (a) Except as provided by subdivisions (b) and (c), and subject to Section 912, a union agent and a represented employee or represented former employee have a privilege to refuse to disclose, in any court or to any administrative board or agency, or in any arbitration or other proceeding, any confidential communication between the employee or former employee and the union agent made while the union agent was acting in the union agent's representative capacity. A represented employee or represented former employee also has a privilege to prevent another from disclosing a confidential communication between the employee and a union agent that is privileged pursuant to this section.

(b) A union agent may use or reveal a confidential communication made to the union agent while the union agent was acting in the union agent's representative capacity in either of the following circumstances:

(1) In actions against the union agent in the union agent's personal or official representative capacity, or against the local union or subordinate body thereof or international union of affiliated or subordinate body thereof or any agent thereof in their personal or official representative capacities.

(2) When, after full disclosure has been provided, the written or oral consent of the bargaining unit member has been obtained or, if the bargaining unit member is deceased or has been adjudged incompetent by a court of competent jurisdiction, the written or oral consent of the bargaining unit member's estate or guardian or conservator.

(c) A union agent shall use or reveal a confidential communication made to the union agent while the union agent was acting in the union agent's representative capacity if required to do so by a court order.

1048.1. For purposes of this article, the following terms mean:

(a) "Confidential communication" means information transmitted, by oral or written communication, between a represented employee or represented former employee and a union agent, in confidence, by a means which, so far as the employee, former employee, or union agent is aware, discloses the information to no third persons other than those who are present to further the

interest of the employee, former employee, or union agent or those to whom disclosure is reasonably necessary for the transmission of the information or the accomplishment of the purpose for which the communication was made, and includes advice given by a union agent in the course of a representational relationship.

(b) "Union agent" means a person employed, elected, or appointed by a labor organization and whose duties include the representation of employees in a bargaining unit in a grievance procedure or in negotiations for a labor agreement and the labor organization. An appointed employee steward is not a union agent except to the extent a represented employee or represented former employee communicates in confidence to the steward regarding a grievance or potential grievance and the appointed employee steward was a steward at the time the communication was made.

1048.2. There is no privilege under this article if the union agent reasonably believes that disclosure of any confidential communication is necessary to prevent a criminal act that the union agent reasonably believes is likely to result in the death of, or substantial bodily harm to, an individual.

1048.3. There is no privilege under this article with respect to a confidential communication made to enable or aid a person in committing, or planning to commit, a crime or fraud.

1048.4. The privilege established under this article does not apply in criminal proceedings.

REVISIONS:

Heading—Line 2.

O

ASSEMBLY THIRD READING
AB 1109 (Kalra)
As Introduced February 20, 2025
Majority vote

SUMMARY

Creates a new evidentiary privilege for communications between union agents and represented employees and extends certain current evidentiary rules relating to existing privileged communications to the union agent-represented employee communications.

Major Provisions

1) Establishes that, subject to specified exceptions, a union agent and a represented employee or represented former employee have a privilege to refuse to disclose, in any court or to any administrative board or agency, or in any arbitration or other proceeding, any confidential communication between the employee or former employee and the union agent made while the union agent was acting in the union agent's representative capacity, and that the represented employee or represented former employee have a privilege to prevent another from disclosing, in connection with such a proceeding, a confidential communication between the employee and a union agent that is privileged pursuant to this bill.

2) Authorizes a union agent to disclose in connection with a proceeding a confidential communication made to the union agent while the union agent was acting in the union agent's representative capacity in either of the following circumstances:

    a) In actions against the union agent in the union agent's personal or official representative capacity, or against the local union or subordinate body thereof or international union or affiliated or subordinate body thereof or any agent thereof in their personal or official representative capacities;

    b) When, after full disclosure has been provided, the written or oral consent of the bargaining unit member has been obtained or, if the bargaining unit member is deceased or has been adjudged incompetent by a court of competent jurisdiction, the written or oral consent of the bargaining unit member's estate or guardian or conservator has been obtained.

3) Requires a union agent to use or reveal a confidential communication made to the union agent while the union agent was acting in the union agent’s representative capacity if required to do by a court order.

4) Establishes that there is no privilege if the union agent reasonably believes that disclosure of any confidential communication is necessary to prevent a criminal act that the union agent reasonably believes is likely to result in the death of, or substantial bodily harm to, an individual.

5) Establishes that there is no privilege with respect to a confidential communication made to enable or aid a person in committing, or planning to commit, a crime or fraud.

6) Establishes that the privilege does not apply in criminal proceedings.

7) Establishes that the right of any person to claim a privilege provided pursuant to 2), above, is waived with respect to a communication protected by the privilege if any holder of the privilege, without coercion, has disclosed a significant part of the communication or has consented to disclosure made by anyone.

8) Establishes that, where two or more persons are joint holders of the privilege provided in 2), above, a waiver of the right of a particular joint holder of the privilege to claim the privilege does not affect the right of another joint holder to claim the privilege.

9) Establishes that a disclosure of a communication that is protected by a privilege provided by 2), above, when disclosure is reasonably necessary for the accomplishment of the purpose for which the union agent was consulted is not a waiver of the privilege.

10) Establishes that, if a privilege is claimed on the ground that the matter sought to be disclosed is a communication made in confidence in the court of the union agent-represented worker relationship, the communication is presumed to have been made in confidence and the opponent of the claim of privilege has the burden of proof to establish that the communication was not confidential.

COMMENTS

This bill enacts a new evidentiary privilege that would protect the confidentiality of communications between an employee and union agent that was made to the agent while they were acting in their representative capacity.

The bill authorizes both the union agent and the represented employee to invoke the privilege to refuse to disclose the information "in any court or to any administrative board or agency, or in any arbitration or other proceeding." It also allows the represented employee, but not the union agent, to prevent another person, including the union agent, from disclosing a confidential communication. The bill defines a confidential communication as information shared between the represented employee and union agent in confidence "by a means which, so far as the employee, former employee, or union agent is aware, discloses the information to no third persons other than those who are present to further the interest of the employee [or] those to whom disclosure is reasonably necessary for the transmission of the information or accomplishment of the purpose for which the communication was made, and includes advice given by a union agent in the course of a representational relationship."

The bill creates exceptions that are standard in other recognized privileges. The union agent may also reveal the confidential communication if compelled to do so by a court order. Additionally, the bill establishes that no privilege attaches to communications in three scenarios: first, if the agent believes disclosure of the communication is necessary to prevent an act that is likely to result in death or substantial bodily harm; second, if the communication was made to enable or aid a person in committing, or planning to commit, a crime or fraud; and third, in criminal proceedings. Distinct from several existing privileges, the bill authorizes a union agent to disclose a confidential communication in actions against the union agent or the union.

Balancing worker privacy and the need for evidence in the investigation and adjudication in workplace disputes. Opponents of the measure contend that adopting a union agent-employee privilege would inhibit timely and thorough investigations of misconduct claims. Specifically, they state the bill "permits the silencing of employees who wish to voluntarily report an accident

or testify because it provides that '[a] represented employee or represented former employee also has a privilege to prevent another from disclosing a confidential communication between the employees and a union agent that is privileged pursuant to this section.'" However, nothing in this bill limits who an employer can interview or prohibits other employees from disclosing *facts relating to the subject of the communication*. In the example cited by the opposition, employees who witnessed an incident themselves or has other relevant information that was gleaned outside of a confidential communication may provide that information to the employer. This bill simply limits the compelled disclosure of the communication between the union-agent and represented employee in order to facilitate open dialogue between a represented employee and their union agent.

According to the Author
AB 1109 would add union agent-represented worker as a recognized statutory evidentiary privilege along with 11 existing types of communications deemed privileged. By allowing evidentiary privilege between workers and union representatives, we ensure the safe, private, and full disclosure of workplace concerns and needs. These communications focus on workers' rights and support California's fair employment standards.

Arguments in Support
This bill is sponsored by the California Federation of Labor Unions. It is supported by the California Association of Psychiatric Technicians and the Riverside County Deputy District Attorneys Association. The California Federation of Labor Unions submits the following:

> Union representatives handle union member allegations of contract violations by the employer. Often, union members confide to a union representative information that is highly sensitive, such as explaining that they were late due to a medical condition or missed work to obtain a domestic violence restraining order. They may confide about gender identity, legal issues, or other topics they want to keep confidential. Unions represent members in grievances and contract enforcement. For effective and efficient labor relations, union representatives need to have all the information relevant to a member's case, and members must trust that their disclosures to union representatives are confidential for the process to work.
>
> […]
>
> AB 1109 will simply extend an evidentiary privilege to confidential communications shared with a union representative. This privilege will not apply to any information that is necessary to disclose to prevent a crime and it is not a non-disclosure agreement or a gag order, meaning that a worker may voluntarily disclose information that they choose. By extending the evidentiary privilege to communications between workers and union representatives, employee privacy will be protected, and workers will be able to speak freely with the union about workplace concerns without fear of retaliation, or fear that their union representative will be forced to disclose their private information to their employer or the public.

Arguments in Opposition
This bill is opposed by two coalitions, one comprised of business advocates led by the Chamber of Commerce, and the other of local government advocates including Rural County Representatives of California. The Chamber of Commerce and its coalition submits the following:

In addition to being rare, privileges are carefully limited so that they do not shield more material than necessary – and judges are empowered to reject assertions of privilege if they are asserted too broadly.

[…]

In the context of AB 1109, we believe that allowing the union representative to refuse to testify to relevant information will delay the resolution of many employment litigation cases – leading to more litigation costs for all parties and delaying the potential award for any righteous plaintiff. As an example: if a union representative has information which would bolster a plaintiff's claim – such as the names of witnesses who could confirm the plaintiff's claims – but is forbidden from sharing those witnesses because either the plaintiff (or another witness) invokes that privilege, that information will not be made available to the defendant employer. Without those witnesses, the defendant employer may spend months (or years) litigating a case because they do not believe the plaintiff's case is strong. However, if that information had been disclosed, the defendant employer might have been able to quickly verify that the plaintiff's claim was indeed righteous, and pay the appropriate damages to the plaintiff. Similarly, AB 1109 may prevent the employer from becoming aware of an abusive employee – leading to additional abuse against employees/customers and additional liability for the employer based on that problematic employee's continuing conduct.

[…]

While we understand the important role that union representatives serve for their union members – we do not see that relationship as akin to the attorney-client privilege. Moreover, we do not believe it is good policy to hide relevant evidence of workplace misconduct by creating this privilege.

FISCAL COMMENTS

None

VOTES

ASM JUDICIARY: 9-0-3
YES: Kalra, Wicks, Bryan, Connolly, Harabedian, Pacheco, Papan, Stefani, Zbur
ABS, ABST OR NV: Dixon, Sanchez, Tangipa

UPDATED

VERSION: February 20, 2025

CONSULTANT: Manuela Boucher / JUD. / (916) 319-2334 FN: 0000214

AB 1109: Evidentiary privileges: union agent-represented worker privilege.

Date	Result	Location	Ayes	Noes	Abstain/Absent	Motion
4/8/2025	P	ASM. JUD.	9	0	3	Do pass. (PASS)

AYES: Bryan, Isaac Connolly, Damon Harabedian, John Kalra, Ash Pacheco, Blanca Papan, Diane Stefani, Catherine Wicks, Buffy Zbur, Rick Chavez

NOES:

ABSTAIN/ABSENT: Dixon, Diane Sanchez, Kate Tangipa, David

March 28, 2025

The Honorable Ash Kalra
Chair, Assembly Judiciary Committee
1020 N Street, Room 104
Sacramento, CA 95814

RE: **AB 1109 (Kalra) Evidentiary Privileges: Union Agent-Represented Worker Privilege.**
OPPOSE *(As Introduced February 20, 2025)*

Dear Chair Kalra,

The California Special Districts Association (CSDA), League of California Cities (Cal Cities), California State Association of Counties (CSAC), Urban Counties of California (UCC), Rural County Representatives of California (RCRC), Association of California Healthcare Districts (ACHD), California Association of Recreation and Park Districts (CARPD), School Employers Association of California (SEAC), California School Boards Association (CSBA), California County Superintendents, Small School Districts' Association (SSDA), Alameda County Office of Education, Dublin Unified School District, Pleasanton Unified School District, The Chief Executive Officers of the California Community Colleges Board (CEOCCC), California Association of Joint Powers Authorities (CAJPA), Schools Excess Liability Fund (SELF), and Public Risk Innovation, Solutions, and Management (PRISM), write to inform you of our respectful opposition to

Assembly Bill (AB) 1109 (Kalra). This bill would restrict an employer's ability to conduct investigations to the detriment of employees' and the public's safety and well-being, add new costs and liability for public employers, and interfere with administrative and judicial proceedings necessary to protect the public's interest and public agencies' duty to be responsible stewards of public funds.

Previous Legislation and Previous Veto
Our concerns with AB 1109 are consistent with the issues raised in response to previously introduced legislation, AB 729 (Hernandez, 2013), AB 3121 (Kalra, 2018) and AB 418 (Kalra, 2019), AB 2421 (Low, 2024), and AB 340 (Ahrens, 2025). The issues are succinctly captured in the AB 729 veto message from Governor Brown, which states: "I don't believe it is appropriate to put communications with a union agent on equal footing with communications with one's spouse, priest, physician or attorney. Moreover, this bill could compromise the ability of employers to conduct investigations into workplace safety, harassment and other allegations."

Creation of New One-Sided Standard, Lacking Important Safeguards
The scope of privilege akin to an attorney-client relationship is carefully defined by state law. Privilege is by design narrow in scope to protect the confidentiality and integrity of relationships, both medical/professional and familial in nature, where highly sensitive and deeply personal information is exchanged. AB 1109 fails to recognize this well-established threshold for creating a right of privilege and instead would create a new, broad privilege for public employees and their unions, without requisite limits on how the privilege functions.

Unlike other privileges that apply to both sides of the litigation or proceedings such as the attorney-client privilege, AB 1109 does not bestow the same privilege upon management-labor negotiator communications, or communications among members of management regarding labor union disputes or grievance issues. Consequently, in labor related proceedings before courts and the California Public Employment Relations Board (PERB) hearings, an employer could be forced to disclose all such communications, while the union or employee could shield relevant and otherwise discoverable communications from disclosure pursuant to the terms proposed in AB 1109.

The bill would also impede a public employer's ability to defend itself or assert its interests in other adversarial processes given that the bill applies to compelled disclosures to any court or to any administrative board or agency, or in any arbitration or other proceeding. Proceeding is defined in Evidence Code Section 901 to mean "any action, hearing, investigation, inquest, or inquiry (whether conducted by a court, administrative agency, hearing officer, arbitrator, legislative body, or any other person authorized by law) in which, pursuant to law, testimony can be compelled to be given." The word "grievance" is included in the bill for purposes of defining a covered union agent, adding more uncertainty as to the types of matters covered by the bill. The breadth of AB 1109's potential application is further complicated in the context of public employment, where the employer is itself a public agency.

AB 1109 is lacking important guardrails commonly applicable to other privileges in the professional context, including:

- The lack of standards to prevent the potential for conflict between the proposed union agent privilege and the union agent's duty to represent the bargaining unit as a whole. A union agent could not reconcile the privilege of one employee with his or her duty to represent a second employee if those employees are adverse to each other. The potential for conflict is further exacerbated because, unlike attorney-client privilege where the client is the

holder of the privilege, AB 1109 would make both the union agent and the employee holders of the privilege.
- The lack of education, training, certification or qualifications required for a union agent to hold the privilege under AB 1109. Other professional, non-familial privileges require years of education, certification and training.
- The lack of enforcement mechanisms, such as sanctions or penalties, to ensure proper use and observance of the privilege. With the other professional privileges, there is typically a disciplinary or licensing body with the authority to take corrective action in the event the privilege is abused or misused. There is no such mechanism in AB 1109.

Taken together, AB 1109's expansion of the evidentiary privilege is anything but straightforward, raising irreconcilable conflicts and concerns not present with established evidentiary privileges.

New Costs and Enhanced Impacts for the State, Local Governments, and Schools
In order to conduct proper investigations that uphold the public's trust, protect against the misuse of public funds, and ensure the safety and well-being of both public employees and the public, it is critical that a public employer has the ability to interview all individuals with relevant information to ascertain the facts and understand the matter fully. AB 1109 would increase investigation and litigation costs for the state as well as local governments and schools due to incomplete investigations, because appropriate witnesses may refuse to disclose relevant information. For schools, this is a drain of Proposition 98 funding.

Although AB 1109 provides that a union agent may reveal a confidential communication to the agent if required to do so by a court order, this provision notably fails to include "a represented employee or former represented employee" as a party that could be compelled to reveal a confidential communication between the employee and union agent pursuant to a court order. Moreover, this provision would add significant costs to the state, local governments, and schools, requiring them in some cases to expend resources to obtain a court order to reveal allegedly "confidential communications" related to otherwise routine workplace investigations as discussed further below.

Endangers Workplace Safety
AB 1109 potentially interferes with the ability to obtain information from witnesses relevant to workplace safety and other matters. The bill permits the silencing of employees who wish to voluntarily report an incident or testify because it provides that "[a] represented employee or represented former employee also has a privilege to prevent another from disclosing a confidential communication between the employee and a union agent that is privileged pursuant to this section." While AB 1109 includes narrow exceptions for criminal proceedings, the disclosure of many important communications may be hindered by the bill's limitations, putting safety at risk. Shockingly, the bill's exception providing that there is no privilege if the union agent reasonably believes that disclosure is necessary to prevent a criminal act that the union agent reasonably believes is likely to result in the death or substantial bodily harm leaves employee safety entirely to the discretion of the union agent.

This bill would also limit the ability of public employers to carry out the requirements of recently enacted law, Senate Bill 553 (Cortese, 2023), which includes conducting investigations into workplace safety, harassment, and other allegations. As of January 1, 2025, SB 553 allows collective bargaining representatives standing to seek temporary restraining orders (TRO) in connection with workplace violence. AB 1109 will create a problematic scenario wherein a TRO may be obtained by a union but an employer could not fully investigate or compel discovery of the underlying facts. As noted

above, AB 1109 lacks guardrails to prevent potential conflicts of interest that could arise during employee safety issues.

For the reasons discussed above, the organizations listed below are respectfully opposed to AB 1109. If you have any questions, please do not hesitate to contact our organizations' representatives directly.

Sincerely,

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CC:

Members of the Assembly Judiciary Committee
Manuela Boucher, Counsel, Assembly Judiciary Committee
Daryl Thomas, Consultant, Assembly Republican Caucus

Dr. LaShae Sharp- Collins
79th Assembly District

AB 1371: Right to Refuse Unsafe Work With Pay

SUMMARY

AB 1371 updates California's Labor Code to allow workers to refuse unsafe work with full pay protection when they have reasonable concerns about health and safety violations. The legislation also strengthens anti-retaliation protections and enforcement mechanisms, ensuring workers do not have to choose between their safety or their paycheck.

BACKGROUND

California Labor Code provides workers with basic protections against termination for refusing unsafe work, but has significant limitations in practice. The law requires workers to prove both that they believe there is a labor law violation and that a "real and apparent" hazard exists. But the definition of “real and apparent” is vague and subjective. In practice meeting the conditions to actually utilize this law is incredibly difficult and rarely achieved.

Despite existing protections, many workers remain unable to exercise their right to refuse unsafe work because current law does not provide a right to refuse work with pay making it financially infeasible for most workers. Many workers feel financial pressure to continue working despite hazardous conditions. This is made all the worse as climate change has led to extreme heat and other dangerous weather conditions.

THIS BILL

AB 1371 establishes a "reasonable apprehension" standard for refusing unsafe work. It also guarantees full wages during periods when workers cannot perform tasks due to true safety concerns. Finally, it incorporates protections against retaliation, including immigration-related retaliation.

SUPPORT

California Labor for Climate Jobs (Sponsor)

CONTACT

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ASSEMBLY BILL No. 1371

Introduced by Assembly Member Sharp-Collins

February 21, 2025

An act to repeal and add Section 6311 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 1371, as introduced, Sharp-Collins. Occupational safety and health: employee refusal to perform hazardous tasks.

Existing law, the California Occupational Safety and Health Act of 1973, requires employers to comply with certain safety and health standards, as specified, and charges the Division of Occupational Safety and Health in the Department of Industrial Relations with enforcement of the act. Existing law prohibits an employer from laying off or discharging an employee for refusing to perform work that would violate prescribed safety standards where the violation would create a real and apparent hazard to the employee or other employees. Existing law defines "employee" for purposes of those provisions to include a domestic work employee, except as specified.

This bill would revise and recast those provisions to, among other things, allow an employee, acting in good faith, to refuse to perform a tasked assigned by an employer if it would violate those prescribed safety standards or if the employee has a reasonable apprehension that the performance of the assigned task would result in injury or illness to the employee or other employees. The bill would make the employee's refusal contingent on the employee or another employee, if reasonably practical, having communicated or attempted to notify the employer of the safety or health risk and the employer having failed

to provide a response that is reasonably calculated to allay the employee's concerns. The bill would require the employer to pay the employee full wages during their scheduled work hours until, among other things, the employee can reasonably conclude that the task will no longer result in the risk of serious injury or illness to the employee or other employees. The bill would prohibit an employer from using an employee's refusal to perform an assigned task as grounds for any disciplinary action, and would make certain retaliation protections applicable to the bill's provisions. The bill would delete the provision defining "employee" to include a domestic work employee.

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

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

SECTION 1. Section 6311 of the Labor Code is repealed.

~~6311. No employee shall be laid off or discharged for refusing to perform work in the performance of which this code, including Section 6400, any occupational safety or health standard, or any safety order of the division or standards board will be violated, where the violation would create a real and apparent hazard to the employee or their fellow employees. Any employee who is laid off or discharged in violation of this section or is otherwise not paid because the employee refused to perform work in the performance of which this code, any occupational safety or health standard, or any safety order of the division or standards board will be violated and where the violation would create a real and apparent hazard to the employee or their fellow employees shall have a right of action for wages for the time the employee is without work as a result of the layoff or discharge. Notwithstanding Section 6303 or other law, as used in this section, "employee" includes a domestic work employee, except for a person who performs household domestic service that is publicly funded, including publicly funded household domestic service provided to a recipient, client, or beneficiary with a share of cost in that service.~~

SEC. 2. Section 6311 is added to the Labor Code, to read:

6311. (a) For purposes of this section:

(1) "Injury or illness" means an abnormal condition or disorder. "Injury" includes, but is not limited to, a cut, fracture, sprain, or

amputation. “Illness” means both acute and chronic illnesses, including, but not limited to, a respiratory disorder, poisoning, or heat illness.

(2) “Hazard” means a condition, practice, or act that could result in an injury or illness to an employee.

(b) An employee, acting in good faith, may refuse to perform a task assigned by an employer if all of the following apply:

(1) Either of the following apply:

(A) The performance of that task will violate this code, any occupational safety or health standard, or any safety order of the division or the standards board, where the violation would create a real and apparent hazard to the employee or their fellow employees.

(B) The employee has a reasonable apprehension that the performance of the assigned task would result in injury or illness to the employee or other employees.

(2) Insofar as it is reasonably practicable, the employee or any other employee has communicated or otherwise attempted to notify the employer of the safety or health risk.

(3) The employer has failed to provide a response that is reasonably calculated to allay the employee’s concerns regarding the safety or health risk associated with the assigned task.

(c) For purposes of this section, an employee shall be considered to be acting in good faith if, under the same circumstances, a reasonable person would conclude that the performance of the assigned task would result in serious injury or illness to the employee or other employees.

(d) (1) An employee or prospective employee who has exercised the right to refuse to perform a task assigned by an employer as afforded by this section shall receive full wages, as provided in paragraph (2), if the employee satisfies both of the following conditions:

(A) The employee has refused to perform the assigned task in accordance with this section.

(B) The employee has not been assigned a different task the performance of which would not pose a risk to the health and safety of the employee.

(2) The employee shall continue to receive full wages during their scheduled work hours until the employer has notified the employee that the hazard has been abated and the employee can

reasonably conclude that the task will no longer result in the risk of serious injury or illness to the employee or other employees.

(e) (1) An employee who is laid off or discharged because the employee has exercised the rights afforded by this section shall have a right of action for wages for the time the employee is without work as a result of the layoff or discharge.

(2) An employee who is not paid for their scheduled work hours in violation of paragraph (2) of subdivision (d) shall have a right of action for those wages.

(f) An employee's refusal to perform an assigned task in accordance with this section shall not be grounds for any disciplinary action, for dismissal or suspension from employment, or for any other adverse employment action.

(g) Any employee who has exercised the right to refuse to perform a task assigned by an employer as afforded by this section shall be covered by retaliation protections specified in Sections 98.6 and 1102.5.

O

Assembly Bill 270
Autonomous Aerial Firefighting Program

SUMMARY

AB 270 will create a pilot project to develop and deploy an autonomous firefighting helicopter in California. The goal of this pilot is to significantly enhance wildfire response times and explore aerial firefighting in high-wind and otherwise unsafe conditions.

BACKGROUND

California is facing an unprecedented wildfire crisis, with the Los Angeles fires of January 2025 highlighting the urgent need for faster and safer suppression methods. The growing scale, intensity, and frequency of wildfires have overwhelmed existing firefighting resources, causing devastating human and economic losses and reversing years of environmental progress.

Research by the Moore Foundation shows that a 15-minute reduction in wildfire response times has the potential to save California billions of dollars annually. Autonomous aerial firefighting offers a groundbreaking solution by enabling nighttime and hazardous-condition operations, improving crew safety, and prepositioning aircrafts to shorten response times.

NEED FOR THE BILL

Traditional fire suppression methods are limited by safety risks to personnel, operational constraints, and the time it takes to mobilize resources in remote areas. These limitations allow fires to grow rapidly, increasing the risk to lives, property, and critical natural resources.

The devastation left in the wake of the Los Angeles wildfires underscore the urgent need to expand California's firefighting capabilities. If California does not invest in innovative technologies, the state risks further catastrophic losses, including human lives, billions in economic damages, detrimental impacts to the atmosphere, and irreparable harm to its natural landscape.

Autonomous firefighting aircrafts offer a transformative solution to address the safety risks that these wildfires pose to California's fire fighters. These aircrafts are capable of operating in conditions that may be too dangerous due to wind or those that are inaccessible to human pilots due to reduced visibility, enabling our forces to address fire strikes quickly and effectively, reducing their scale and impact. Additionally, and when conditions are right, the aircrafts can be operated by a human crew to enhance aerial firefighting and other operations, such as search and rescue.

Technologies of this sort represent an opportunity to not only enhance and supplement fire suppression efforts, but to also establish California as a leader in adopting cutting-edge firefighting technologies that can be modeled across the nation.

SOLUTION

AB 270 will require Department of Forestry and Fire Protection (CalFire) to create a pilot project to acquire, configure, and integrate the use of an autonomous firefighting helicopter during wildfire suppression efforts. This pilot will include a focus on training, protocol development, and metrics to demonstrate the capabilities and successes of autonomous aerial firefighting, in coordination with California's fire agencies.

The pilot project builds on California's existing success investment of the FIRIS real-time fire intelligence program and will provide the nation's first testbed for autonomous firefighting aircrafts, with the goal of integrating these systems into statewide operations.

Updated 4/24/2025
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AMENDED IN ASSEMBLY APRIL 3, 2025

CALIFORNIA LEGISLATURE—2025–26 REGULAR SESSION

ASSEMBLY BILL No. 270

Introduced by Assembly Member Petrie-Norris

January 21, 2025

An act to add ~~Section 8586.10 to~~ *Article 4.6 (commencing with Section 4149) to Chapter 1 of Part 2 of Division 4 of* the ~~Government~~ *Public Resources* Code, relating to ~~emergency response.~~ *fire safety.*

LEGISLATIVE COUNSEL'S DIGEST

AB 270, as amended, Petrie-Norris. ~~Office of Emergency Services:~~ *Department of Forestry and Fire Protection:* autonomous firefighting ~~activities.~~ *pilot project.*

~~Existing law, the California Emergency Services Act, establishes the Office of Emergency Services in the office of the Governor, with specified powers and duties relative to coordinating emergency services. Existing law requires the Office of Emergency Services to enter into a joint powers agreement with the Department of Forestry and Fire Protection to develop and administer a comprehensive wildfire mitigation program, as specified.~~

Existing law requires the Department of Forestry and Fire Protection, in accordance with a plan approved by the State Board of Forestry and Fire Protection, to, among other things, provide fire prevention and firefighting implements and apparatus and organize fire crews and patrols, as provided.

This bill would require the ~~Office of Emergency Services~~ *Department of Forestry and Fire Protection* to establish a pilot ~~program~~ *project* to equip the state with the nation's first testbed ~~autonomous~~ firefighting helicopter *equipped with autonomous aerial suppression technology*

and the associated configuration, familiarization, and training activities to transition the aircraft into operational use. *The bill would also require the department to invite local, state, tribal, and federal fire agencies to participate in those familiarization and training activities. The bill would require the department to convene, within 60 days of completion of the pilot project, leading fire professionals in California to assess the performance of the pilot project and, if the pilot project meets its objectives, determine how to incorporate autonomous aerial suppression technology into existing state wildfire mitigation efforts.* The bill would include related legislative findings.

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

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

SECTION 1. The Legislature finds and declares both of the following:

(a) Over the past decade, unprecedented climate disasters have increased in size, severity, and scale, which present enormous challenges to fire agencies in California and the public they serve. These disasters have strained existing response capacity and caused unimaginable human suffering, economic damage, watershed impacts, and reversal in climate progress.

(b) ~~Autonomous firefighting~~ *Firefighting* aircraft *with autonomous aerial suppression technology* have the potential to ~~scale wildfire response capacity by significantly improving safety~~ *increase suppression capabilities through operational safety, firefighting effectiveness, and mission efficiency* for both crewed and ~~un-crewed missions, expanding the response window to include operations at night and in degraded conditions that are unsafe for human pilots, and reducing response time by enabling uncrewed aircraft to be prepositioned in remote areas.~~ *uncrewed missions.*

~~SEC. 2. Section 8586.10 is added to the Government Code, to read:~~

~~8586.10. The Office of Emergency Services shall establish a pilot program to equip the State of California with the nation's first testbed autonomous firefighting helicopter and the associated configuration, familiarization, and training activities to transition the aircraft into operational use.~~

SEC. 2. Article 4.6 (commencing with Section 4149) is added to Chapter 1 of Part 2 of Division 4 of the Public Resources Code, to read:

Article 4.6. Autonomous Aerial Suppression Technology Pilot Project

4149. (a) The department shall establish a pilot project to equip the State of California with the nation's first testbed firefighting helicopter equipped with autonomous aerial suppression technology and the associated configuration, familiarization, and training activities to transition the aircraft into operational use.

(b) The department shall invite local, state, tribal, and federal fire agencies and personnel to participate in the familiarization and training activities of the pilot project.

(c) Not later than 60 days after the completion of the pilot project, the department shall convene leading fire professionals in California, including stakeholders from local, state, tribal, and federal fire agencies to do both of the following:

(1) Assess the performance of the pilot project.

(2) If the pilot project meets its objectives, determine how to incorporate autonomous aerial suppression technology into existing state wildfire mitigation efforts.

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Assembly Bill 275
Permanent Quick Reaction Force for Wildfire Protection

SUMMARY

AB 275 will require the Office of Emergency Services, in consultation with Cal Fire, to establish a working group to consider the merits of creating a state funded, year-round quick reaction wildfire suppression program.

BACKGROUND

California's wildfire seasons have grown longer and more severe, driven by climate change and increased human activity in fire-prone areas. Wildfires pose a significant threat to lives, property, and critical infrastructure. Fire agencies across the state increasingly rely on innovative solutions to enhance response times and mitigate fire damage.

Since 2020, SoCal Edison (SCE) has utilized the Quick Reaction Force (QRF) helitanker program, which has been a crucial asset in Southern California's wildfire response strategy. The program employs state-of-the-art helitankers capable of rapid deployment to active fire zones, providing critical air support to ground firefighting teams. This capability has significantly improved response effectiveness and reduced fire spread in many of the fifteen counties served by Southern California Edison. Sustained and reliable resources similar to the QRF program could be essential for meeting California's growing statewide demands on wildfire response.

NEED FOR THE BILL

Innovative, long-term firefighting resources are critical to strengthening California's fire suppression efforts, especially in the face of increasing wildfire threats. With its ability to quickly address emergent wildfires, SCE's QRF program has been an invaluable resource for fire agencies in SCE's service area.

A thorough review of establishing a permanent, state-funded quick response force program could offer cost-effective solutions to reduce the economic and human toll of wildfires. Furthermore, integrating such a program into Cal OES would enhance coordination with other emergency response efforts, ensuring a more unified and efficient approach to wildfire preparedness and response in the years ahead.

SOLUTION

AB 275 directs the Office of Emergency Services, in consultation with Cal Fire, to establish a working group by December 31, 2026, to evaluate and recommend options for a year-round, 24/7 aerial wildfire suppression program. The group will consider key elements for effective statewide response and advise whether to implement the program as a pilot, full-scale initiative, or not at all. Members with wildfire aviation expertise will be appointed by the Director of Emergency Services, and findings must be reported to the Legislature by December 31, 2027.

Updated 4/24/2025
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AMENDED IN ASSEMBLY APRIL 23, 2025

AMENDED IN ASSEMBLY MARCH 13, 2025

CALIFORNIA LEGISLATURE—2025–26 REGULAR SESSION

ASSEMBLY BILL No. 275

Introduced by Assembly Member Petrie-Norris

January 21, 2025

An act to add Article 24 (commencing with Section 8669.9) to Chapter 7 of Division 1 of Title 2 of the Government Code, relating to ~~emergency response.~~ *fire safety.*

LEGISLATIVE COUNSEL'S DIGEST

AB 275, as amended, Petrie-Norris. Office of Emergency Services: wildfire ~~response: SoCal Edison-funded helitanker program.~~ *aerial response program.*

Existing law, the California Emergency Services Act, establishes the Office of Emergency Services in the office of the Governor, with specified powers and duties relative to coordinating emergency services. Existing law requires the Office of Emergency Services to enter into a joint powers agreement with the Department of Forestry and Fire Protection to develop and administer a comprehensive wildfire mitigation program, as specified.

~~Existing law requires electrical corporations to construct, maintain, and operate their electrical lines and equipment in a manner that will minimize the risk of catastrophic wildfire posed by those electrical lines and equipment. Existing law requires an electrical corporation to develop, adopt, and update an emergency and disaster preparedness plan and a wildfire mitigation plan, as specified.~~

This bill would require the Office of Emergency ~~Services~~ *Services, in consultation with the Department of Forestry and Fire Protection,* to establish, on or before December 31, 2026, a working group to ~~study the feasibility of making the SoCal Edison-funded Quick Reaction Force firefighting helitanker program permanent in statute.~~ *evaluate and develop recommendations for implementing a wildfire aerial response program to provide year-round, 24 hours per day, 7 days per week, rapid aerial suppression capabilities. The bill would require the working group to consider specified elements to ensure effective statewide aerial wildfire suppression and to develop recommendations, including whether the program should be implemented as a pilot program, a full-scale statewide initiative, or if implementation is not recommended based on feasibility findings.* The bill would require the Director of Emergency ~~Services~~ *Services, in consultation with the department,* to appoint members to the working group who are ~~knowledgeable about the program. The bill would make related findings and declarations.~~ *familiar with wildfire aviation response programs, as provided. The bill would require the working group to report its findings and implementation recommendations to the Assembly Committee on Emergency Management and the Senate Committee on Governmental Organization on or before December 31, 2027, 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:

~~SECTION 1. (a) The Legislature finds and declares both of the following:~~

~~(1) Since 2020, the SoCal Edison-funded Quick Reaction Force (QRF) has positively demonstrated its ability to protect lives, property, and infrastructure.~~

~~(2) The fire agencies within the fifteen counties that SoCal Edison serves have come to depend on the QRF program to respond to wildfires across Southern California.~~

~~(b) It is the intent of the Legislature to enact legislation to make the QRF firefighting helitanker program permanent and maintained by the Office of Emergency Services.~~

~~SEC. 2.~~

SECTION 1. Article 24 (commencing with Section 8669.9) is added to Chapter 7 of Division 1 of Title 2 of the Government Code, to read:

Article 24. ~~Quick Reaction Force Firefighting Helitanker Program~~ *Wildfire Aerial Response Program*

8669.9. (a) The Office of Emergency ~~Services~~ *Services, in consultation with the Department of Forestry and Fire Protection,* shall establish, on or before December 31, 2026, a working group to ~~research the feasibility of making the SoCal Edison-funded Quick Reaction Force firefighting helitanker program permanent in statute.~~ *evaluate and develop recommendations for implementing a wildfire aerial response program to provide year-round, 24 hours per day, seven days per week, rapid aerial suppression capabilities. It is the intent of the Legislature that the wildfire aerial response program be available to local fire agencies upon request to enhance wildfire response efforts.*

(b) The working group shall consider a wildfire aerial response program that includes, but is not limited to, the following elements to ensure effective statewide aerial wildfire suppression:

(1) A fleet of firefighting aircraft capable of rapid aerial suppression, including night operations.

(2) A reconnaissance aircraft equipped with night vision and infrared technology to provide real-time aerial intelligence, enhance incident command decisionmaking and guide suppression efforts.

(3) A mobile retardant base capable of supporting sustained aerial firefighting operations.

(4) Support personnel necessary to ensure continuous operational readiness, including, but not limited to, mechanics, logistics staff, and relief pilots.

(c) The working group shall develop recommendations, including, but not limited to, recommendations on the following topics:

(1) Cost-sharing and operational models, including, but not limited to, a structure where the local fire agencies lease aircraft and provide operational control and staffing with requesting fire departments responsible for operational costs when deployed and

when the state assumes responsibility for standby costs associated with the fleet, mobile retardant base, and helicopter coordination services.

(2) Protocols for local fire agencies to request deployment of program resources, ensuring rapid mobilization during high-risk wildfire events and equitable distribution based on regional wildfire risk, incident severity, and mutual aid priorities.

(3) The division and staging of resources to maximize efficiency and coverage.

(4) The strategic placement of resources to ensure effective statewide response capabilities.

(5) Whether the program should be implemented as a pilot program, a full-scale statewide initiative, or if implementation is not recommended based on feasibility findings.

(d) The inclusion of the elements listed in subdivisions (b) and (c) shall be evaluated for feasibility and effectiveness, and shall not be construed as a mandatory requirement for subsequent program design.

~~(b)~~

(e) The Director of Emergency ~~Services~~ *Services, in consultation with the Department of Forestry and Fire Protection,* shall appoint members to the working group who are ~~knowledgeable about the SoCal Edison-funded Quick Reaction Force firefighting helitanker program.~~ *familiar with wildfire aviation response programs, including, but not limited to, representatives from county fire departments, the Department of Forestry and Fire Protection, and the Office of Emergency Services.*

(f) (1) The working group shall report its findings and implementation recommendations, including feasibility analysis, cost projections, and deployment strategies, to the Assembly Committee on Emergency Management and the Senate Committee on Governmental Organization on or before December 31, 2027. The report required to be submitted pursuant to this section shall be submitted pursuant to Section 9795.

(2) The requirement for submitting a report imposed pursuant to this subdivision is inoperative on December 31, 2031, pursuant to Section 10231.5.

O

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AB 470 (McKinnor) The Connected California Act
FACT SHEET

Sponsor: Assemblymember Tina McKinnor
Staff Contact: Terry Schanz, terry.schanz@asm.ca.gov
As Amended: April 22, 2025

ISSUE

Californians need reliable, fast and affordable communication options. Outdated state laws steer significant investments away from modern technologies and into obsolete copper landline technology that fails to meet modern consumer needs. Less than 5% of households within the service area of the state's largest landline provider still subscribe to copper-based home phone service - a number that continues to decline, while costing millions annually to maintain.

Climate crisis caused natural disasters demonstrate that it is even more critical to have a modern communications system that meets the needs of California residents. Californians must have reliable access to life-saving information in real time, no matter their location. Connectivity is also vital for our public safety partners to ensure they have the tools they need to communicate situational awareness, pinpoint people faster and issue alerts, warnings and other critical information. Californians already demonstrate that they turn to their modern networks during a crisis – with about 95% of 911 calls being made through modern technology.[1]

SOLUTION

AB 470 incentivizes investment in broadband and wireless networks so more Californians can connect. Current regulations discourage investment in modern networks like broadband and wireless. Updating these regulations helps ensure critical communications infrastructure investment supports those services that Californians use today and into the future. AB 470 updates those policies that support needed investment in broadband and wireless networks while protecting those customers who rely on old copper-based landline services

AB 470 is a balanced solution that incentivizes investment while ensuring no Californians are left behind. Modern network services are more innovative, reliable, fast and more capable of meeting the twenty-first-century needs of Californians. In addition to superior services and reliability, the cost of high-speed broadband and wireless services have been steadily decreasing for the past two decades, while during the same period, copper landline services have drastically increased in cost. With affordable modern internet-based and wireless-based phone services, consumers benefit from greater affordability and additional features like texting, video calls, and high-speed internet access.

1 NHTSA's National 911 Program: 911 Stats & Data by State, 2023

AB 470 would change outdated state regulations to allow for the transition of customers from obsolete copper to modern communications technologies.

Additionally, this transition helps our state move toward a more sustainable and efficient future. Fiber-based high-speed networks, both wired and wireless, are significantly more energy-efficient, utilizing far less energy to provide these upgraded capabilities.

The April 22nd amendments of AB 470 reflect extensive stakeholder input and focuses on modernizing California's communications network for all while ensuring that no Californian is left behind by doing the following:

Transition Over Time - No Californian Left Behind

- AB 470 ensures a careful, phased-in multi-year modernization process that protects all Californians during the transition to a next-generation communications network.
    - Modernization is only permitted in areas that are 1) unpopulated and without customers, or 2) designated as "well-served," meaning:
        - At least three alternative voice services are available,
        - At least one alternative must be a wireline provider,
        - All alternatives must be facilities-based (not resellers) and serve 99.9% of the census block.
- In areas that do not meet the "well-served" threshold, existing Carrier of Last Resort (COLR) obligations remain fully intact. Nothing changes in these areas.

Provide Robust Consumer Protections

- A public notice will be published in the amended status area, and customers must receive advance notice of any changes, with materials provided in-language.
- AB 470 provides an opportunity to challenge the data before a company begins the process to amend its status as a COLR.
- Customers can challenge the availability of alternative voice services. All challenges are to be reviewed by an independent third-party selected by the California Public Utilities Commission (CPUC) and paid for by the telecommunications provider seeking to reform their COLR obligation.
- AB 470 provides additional protections by establishing a challenge process that requires a company to continue providing basic exchange service to a customer if there is not a comparatively priced alternative voice service available to the customer.
- AB 470 also requires that local public workshops, a dedicated website, and a toll-free number be available to help customers understand the process and their options.
- In the unlikely event a provider exits the market leaving no alternatives in that area, AB 470 provides a fallback COLR option to maintain service continuity and protect affected customers.

Strengthen Public Safety

- AB 470 ensures no impact to Land Mobile Radio (LMR) systems used by first responders.
- AB 470 will provide transition assistance funding for public safety agencies as they migrate to modern network infrastructure.
    - The bill also included funding for Tribal governments, community-based organizations, and local governments to be used on outreach and awareness for

modern communications options.
- AB 470 also ensures that a replacement voice service must be offered that is compatible with home alarm systems, medical alert devices, and point-of-sale terminals.

Ensure Services Remain Affordable

- AB 470 requires that customers must have access to at least one alternative service that is comparable in price to traditional Plain Old Telephone Service (POTS).
- AB 470 also requires that companies must offer an affordable broadband plan to eligible customers in each amended status area.

Prepare Californians for the Future

- AB 470 helps position the state for long-term connectivity and workforce readiness, including:
    - Three-year commitment to expand fiber broadband access, requiring companies to install fiber to at least as many homes as they had traditional phone customers when they received amended status.
    - Funding to build skills around modern networks and prepare workers for the jobs of the future.
    - Funding to develop community-based digital literacy programs and resources.

AB 470 is an intentional, balanced approach that protects consumers, preserves access to essential voice services, strengthens public safety, and will prepare California for the future.

SUPPORT

Californians for a Connected Future
Business Council of San Joaquin County
California Tribal College
Asian Pacific American Leadership Institute (APALI)
101 Enterprises Foundation
Tribal Alliance of Sovereign Indian Nations (TASIN)
Monterey County Hospitality Association
Mission Bit
Los Altos Chamber of Commerce
Filipino-American Chamber of Commerce of Solano County
El Segundo Chamber
Carson Chamber

AMENDED IN ASSEMBLY APRIL 22, 2025

AMENDED IN ASSEMBLY MARCH 17, 2025

CALIFORNIA LEGISLATURE—2025–26 REGULAR SESSION

ASSEMBLY BILL No. 470

Introduced by Assembly Member McKinnor

February 6, 2025

An act to add Article 1.5 (commencing with Section 2878) to Chapter 10 of Part 2 of Division 1 of the Public Utilities Code, relating to ~~communications.~~ *communications, and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

AB 470, as amended, McKinnor. Telephone corporations: carriers of last resort.

Existing law vests the Public Utilities Commission with regulatory authority over public utilities, including telephone corporations. Existing law authorizes the commission to fix just and reasonable rates and charges for public utilities. Existing law requires the commission, on or before February 1, 1995, to issue an order initiating an investigation and open proceeding to examine the current and future definitions of universal service in telecommunications. Pursuant to that provision, the commission issued a decision involving carriers of last resort, including the withdrawal process for carriers of last resort, defined as a carrier who provides local exchange service and stands ready to provide basic service to any customer requesting such service within a specified area.

~~This bill would require a telephone corporation seeking to relinquish its carrier of last resort designation for an eligible area, as defined, to provide a notice to the commission, as described, and would require~~

~~the telephone corporation's carrier of last resort designation for the eligible area to be relinquished upon the submission of the notice. The bill would require the telephone corporation to modify its tariff for basic local exchange telephone service, as specified, and would require that the modified tariff be effective upon the submission of the notice. The bill would require the telephone corporation to administer and pay for a customer challenge process for customers who inform the telephone corporation that no alternative voice service, as defined, is available at their location, as specified. The bill would require the commission, as part of a specified rulemaking, to establish a transition plan that a telephone corporation would be required to follow before its carrier of last resort designation is relinquished for an area within its service territory other than an eligible area.~~

This bill would provide procedures for telephone corporations to terminate their carrier of last resort obligations in areas where the United States Census Bureau reports no population, in areas where telephone corporations provide no basic exchange service to any customer address located within their telephone service territory, and in areas that are well-served, as defined. The bill would require telephone corporations to fulfill specified conditions and meet certain notice requirements to be relieved of the carrier of last resort obligations. The bill would impose additional duties on telephone corporations terminating their carrier of last resort obligations, including, among other things, publishing a notice which would specify a residential consumer's authority to submit a written request seeking independent third-party review of the assertion that an area has no population or no basic exchange service customers or that a consumer in an area is well-served, as applicable. The bill would require the commission, on or before January 1, 2027, to determine a transition plan to be followed before a telephone corporation amends its status as a carrier of last resort in areas other than those subject to amended status under the bill.

The bill would create the Public Safety Agency Technology Upgrade Grant Fund, provide that moneys in the fund are continuously appropriated to the commission for purposes of public safety agency technology upgrade grants, and authorize the fund to accept donations from nongovernmental entities. The bill would make specified exceptions to these provisions.

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.

Under existing law, a violation of an order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because a violation of a commission action implementing this bill's requirements would be a 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~~ *yes*. Fiscal committee: yes. State-mandated local program: yes.

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

SECTION 1. The Legislature finds and declares all of the following:

(a) ~~All~~ *The state encourages the deployment of advanced telecommunications capability to all Californians by utilizing regulatory forbearance measures that promote competition in the local telecommunications market, or other methods that encourage infrastructure investment.*

(b) All Californians deserve reliable, affordable, fast, and safe communications options, no matter who they are, where they live, or why they need to be connected.

~~(b)~~

(c) The transition to broadband networks is key to creating equity and positive impacts on California education, health care, *agriculture,* public safety, workforce development, and the economy.

~~(c)~~

(d) Outdated state laws result in continued investments in aging technology that consumers ~~are increasingly abandoning~~ *have largely abandoned* because it does not meet their needs.

~~(d)~~

(e) Californians are moving swiftly to abandon the ~~old copper~~ *legacy* network because it does not provide the benefits of modern communication technologies, with more choosing to use ~~wireless or internet-based~~ *advanced* services every year.

~~(e)~~

(f) California must develop a responsible and equitable transition plan that ensures all Californians have access to the connectivity they need.

~~(f)~~

(g) The transition should include a phased approach that over time ensures customers have access to communication services that are equally or more reliable and affordable, before transitioning away from the old legacy network.

~~(g)~~

(h) As part of the transition, no Californian will be left without reliable voice service in their homes, including the ability to contact ~~9-1-1 and to receive critical emergency alerts.~~ *9-1-1*.

SEC. 2. Article 1.5 (commencing with Section 2878) is added to Chapter 10 of Part 2 of Division 1 of the Public Utilities Code, to read:

Article 1.5. Carriers of Last Resort

2878. For purposes of this article, all of the following definitions apply:

(a) "Alternative voice service" means a retail service made available through a technology or service arrangement by a provider that provides, as a stand-alone service or as part of a bundled service, all of the following:

(1) Voice access interconnected with the public switched telephone network.

(2) Access to emergency 9-1-1 ~~service.~~ *service and E-9-1-1 service in compliance with current state and federal laws and regulations.*

(3) Compatibility with a backup power source.

~~(b) "Area" means census block.~~

~~(c) "Available" means the service provider provides coverage to at least 99 percent of the population of the area, according to the most recent federal census population estimates.~~

~~(d) "Carrier of last resort" has the same meaning as defined in Section 275.6.~~

~~(e) "Eligible area" means either of the following:~~

~~(1) An area that meets both of the following criteria:~~

~~(A) The United States Bureau of the Census reports no population in the area.~~

~~(B) The telephone corporation does not provide basic local exchange telephone service to a customer address in the area.~~

~~(2) An area that is well-served by alternative voice service.~~

(4) A billing option with monthly rates and without contract or early termination penalties.

(5) Access to the California Relay Service pursuant to Section 2881 for deaf or hearing-impaired persons or individuals with speech disabilities.

(6) Access to customer service for information about service termination, repair, and billing inquiries.

(7) Free access to 800 and 8YY toll-free services with no additional usage charges for such calls.

(b) "Amended status" means the status of a telephone corporation that relinquished carrier of last resort status in a census block or census blocks.

(c) "Amended status area" means a census block or census blocks for which a telephone corporation relinquished carrier of last resort status.

(d) "Broadband service" means a mass-market retail service by wire or radio provided to customers in the state that provides the capability to transmit data to, and receive data from, all or substantially all internet endpoints, including, but not limited to, any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up internet access service.

(e) "Comparatively priced alternative voice service" means an alternative voice service that is competitively priced in relation to the relevant telephone corporation's nondiscounted basic exchange telephone service when considering all the alternatives in the amended status area and the functionalities of the alternatives.

(f) "Eligible small business customer" means a traditional landline customer with five or fewer lines, that is not subject to a separate contract for copper-based voice services and fits the

"microbusiness" definition in paragraph (2) of subdivision (d) of Section 14837 of the Government Code.

~~(f)~~

(g) "Notice" means a written communication.

(h) "Qualifying public assistance program" means any of the following programs:

(1) The California Alternate Rates for Energy (CARE) program described in Section 739.1.

(2) The State Supplementary Payment Program for the Aged, Blind and Disabled implemented pursuant to the Burton-Moscone-Bagley Citizens' Income Security Act for Aged, Blind and Disabled Californians (Chapter 3 (commencing with Section 12000) of Part 3 of Division 9 of the Welfare and Institutions Code).

(3) The Temporary Assistance for Needy Families program pursuant to Part A (commencing with Section 401) of Title IV of the federal Social Security Act (42 U.S.C. Sec. 601 et seq.).

(4) The CalFresh program established pursuant to Chapter 10 (commencing with Section 18900) of Part 6 of Division 9 of the Welfare and Institutions Code.

(5) Covered California, as described in Title 22 (commencing with Section 100500) of the Government Code.

(6) Medi-Cal, as described in the Medi-Cal Act (Chapter 7 (commencing with Section 14000.4) of Part 3 of Division 9 of the Welfare and Institutions Code).

(7) Supplemental security income benefits pursuant to Title XVI of the Social Security Act (Section 1381 of Title 42 of the United States Code).

~~(g) "Telephone corporation" has the same meaning as defined in Section 234.~~

~~(h)~~

(i) "Well-served" means at least three different *facilities-based* service ~~providers,~~ *providers offer alternative voice service in the relevant area, and* at least one of ~~which~~ *the service providers* is a wireline provider, ~~offer alternative voice service to customers in the relevant area, and at least one of the alternative voice services offered by a service provider is reasonably comparable in price or value to the telephone corporation's current nondiscounted rate for basic local exchange telephone service.~~ *and at least one of the service providers offers a comparatively priced alternative voice*

service. The alternative voice service shall be available to at least 99.9 percent of the broadband-serviceable locations in the area, as such broadband-serviceable locations are set forth in the most recent publicly available Federal Communications Commission National Broadband Map showing fixed and wireless broadband coverage.

2878.1. (a) A telephone corporation shall no longer be a carrier of last resort, or have any carrier of last resort obligations, in an area where the United States Census Bureau reports no population or where a telephone corporation provides no basic exchange service to any customer address located within its telephone service territory when it fulfills the obligations set forth in Section 2878.3

(b) A telephone corporation shall no longer be a carrier of last resort, or have any carrier of last resort obligations, in an area that is well-served when the telephone corporation fulfills the obligations set forth in Section 2878.4.

2878.2. (a) A telephone corporation that seeks to amend its status as a carrier of last resort under either Section 2878.3 or Section 2878.4 shall first publish notice of its intention one time in the nonlegal section of a newspaper of general circulation throughout the relevant areas and on any social media channels the company utilizes for marketing in those areas. The notice shall provide all of the following:

(1) A full explanation to residential consumers regarding the amended status process and applicable timelines. The explanation shall include a map of each area covered by the notice, including the source and date for all data reflected in the map. The telephone corporation may use the most recent publicly available Federal Communications Commission National Broadband Map showing fixed and wireless broadband coverage.

(2) A provision stating that any residential consumer may oppose the telephone corporation's assertion that there is either no population or no basic exchange service customer if the telephone corporation seeks amended status under Section 2878.3, or that the area is well-served if the telephone corporation seeks amended status under Section 2878.4, by submitting a written request to the telephone corporation seeking independent third-party review. The notice shall state that the written request

shall be submitted to the telephone corporation no later than 90 days from the date on the notice.

(b) Regarding a residential consumer's written request pursuant to subdivision (a), the following shall apply to the telephone corporation:

(1) No later than 30 days after the receipt of the residential consumer's written request, the telephone corporation shall identify and submit to the executive director of the commission or the executive director's designee three entities qualified to conduct the independent third-party review.

(2) No later than 30 days after the identification and submission, the executive director of the commission or the executive director's designee, shall select one of the three identified entities to conduct the independent third-party review.

(3) The telephone corporation shall contract with the selected entity and pay for the independent third-party review.

(4) The independent third-party review shall evaluate the merits of the residential consumer's claim and make its determination within 30 days of selection.

(5) If the independent third-party reviewer determines that the residential consumer's claim has merit, the telephone corporation shall offer to provide, to the extent technically feasible, the residential consumer with alternative voice service at that address for 24 months from the amended status effective date.

2878.3. (a) Subject to completion of the process set forth in Section 2878.2, a telephone corporation that seeks to amend its status as a carrier of last resort in an area that the United States Census Bureau reports no population, or that a telephone corporation provides no basic exchange service to any customer at a customer address, shall submit the notice described in subdivision (b) to all of the following entities:

(1) The Governor.

(2) The commission.

(3) The Office of Emergency Services.

(4) The Department of Forestry and Fire Protection.

(5) Each city, county, city and county, or unincorporated town or village included in the amended status area.

(b) (1) The notice shall be in writing and be delivered to the address of record.

(2) The notice shall include both of the following:

(A) A map of each area covered by the notice, including the source and date for all data reflected in the map. The telephone corporation may use the most recent publicly available Federal Communications Commission National Broadband Map showing fixed and wireless broadband coverage.

(B) A copy of the tariff modification describing the telephone corporation's amended status in the areas covered by the map provided pursuant to subparagraph (A).

(c) The amended status and the tariff modification shall be effective 30 days from the date of the notice. The telephone corporation shall respond in good faith to all inquiries from those entities receiving notification pursuant to subdivision (a).

2878.4. (a) Subject to completion of the process set forth in Section 2878.2, a telephone corporation that seeks to amend its status as a carrier of last resort in areas that are well served shall commit to the obligations described in subdivision (b) and provide the notice described in subdivision (c) to its basic exchange customers. The telephone corporation's amended status in well-served areas shall be effective 30 days from date of the third customer notification letter described in subdivision (c), or 30 days from the date of the commitment letter described in subdivision (b), whichever is later.

(b) A telephone corporation that seeks to amend its status as a carrier of last resort in an area that is well served shall provide a commitment letter from an officer with authority to bind the telephone corporation that certifies that the telephone corporation agrees to meet the obligations listed in this subdivision in well-served areas for 24 months from the date the telephone corporation obtains amended status in the area, unless specified otherwise below. The letter shall be addressed to the Governor with copies of the letter provided to the commission and each city, county, or unincorporated town or village in the amended status areas. The telephone corporation shall, and the letter shall state that the telephone corporation shall, do all the following:

(1) For three years from the effective date a telephone corporation obtains amended status, the telephone corporation shall demonstrate that it has made accessible its advanced fiber optics buildout to at least the number of residential units in the state as the number of basic exchange customers the telephone corporation had as of the effective date of its obtaining amended

status. The telephone corporation shall provide an annual report to the executive director of the commission certifying the following:

(A) The telephone corporation made accessible its advance fiber optics buildout to at least the number of residential units in the state as the number of basic exchange customers the telephone corporation had as of the effective date of its obtaining amended status.

(B) The telephone corporation had a positive year-over-year increase in its advanced fiber optics buildout in the state.

(C) Notwithstanding any other provision of law, any annual report submitted pursuant to this section shall be considered confidential and protected from public disclosure in accordance with Section 583.

(2) Provide continuing service to a customer who subscribes to basic exchange service for at least 12 months from the date the telephone corporation obtains amended status in the area if the customer elects not to transition to an alternative voice service.

(3) To the extent technically feasible, offer an existing residential customer a comparatively priced alternative voice service. For purposes of this paragraph, comparatively priced alternative voice service shall, in addition to meeting the requirements of subdivision (a) of Section 2878, provide interoperability with legacy devices utilizing copper for alarm systems, point-of-sale devices, and medical monitoring devices.

(4) Offer an affordable broadband plan in each amended status area to eligible consumers. To qualify, a household shall have an income that is at or below 400 percent of the federal poverty guidelines or at least one member of the household shall participate in a qualifying public assistance program.

(5) Offer small business security and alarm system technology migration assistance in each amended status area to eligible small business customers who transition to an alternative voice service by providing a voucher to eligible small business customers for costs associated with transitioning alarm system services. Vouchers shall be administered by the telephone corporation and participation in the program reported annually to the commission.

(6) Provide funding for public safety agency technology upgrade grants to be administered by the Board of State and Community Corrections to public safety agencies that have at least one service connection located in an amended status area. Administrative

costs incurred by the Board of State and Community Corrections shall be recouped from the grant fund.

(7) Provide funding to the Office of Emergency Services for grants and programs to tribal governments, community-based organizations, and local governments that focus on public outreach and awareness of modern communications, including, but not limited to, alternative voice services, for those with low incomes, disabilities, language barriers, older adults, and residents in high-risk areas, to help them prepare for, respond to, and recover from emergencies.

(8) Provide funding for programs to develop community-based digital literacy resources in amended status areas.

(9) Provide funding for a workforce development program in amended status areas that includes, but is not limited to, enhanced skills training, mentoring, education reimbursement, and career development programs for nonmanagement employees.

(10) During the 90-day notice period described in subdivision (c), conduct a minimum of one informational workshop in each legislative district that includes one or more amended status areas, and conduct a minimum of one additional informational workshop in other legislative districts upon request from the Assembly Member or Senator representing the district.

(11) Maintain an internet website and toll-free number dedicated to answering questions regarding the amended status process.

(c) The telephone corporation shall provide three notice letters to customers in the amended areas. The letters shall be sent 30 days apart. The notice letters must comply with the commission's rules for in-language support to limited English proficient telecommunications consumers adopted pursuant to commission Decision 07-07-043 (July 26, 2007), Decision Addressing the Needs of Telecommunications Consumers Who Have Limited English Proficiency, or as subsequently revised. Each letter shall include all the following information:

(1) A full explanation to customers regarding the amended status process and timing. The explanation shall include a map of each area covered by the notice, including the source and date for all data reflected in the map. The telephone corporation may use the most recent publicly available Federal Communications Commission National Broadband Map showing fixed and wireless broadband coverage.

(2) A description of the alternative voice service available from the telephone corporation.

(3) A description of the affordable broadband plans available from the telephone corporation to eligible consumers in the amended status areas.

(4) Links to the internet websites and telephone numbers of alternative voice service providers in the amended status areas.

(5) The date, time, and location of the informational workshop for the customer's amended status area.

(d) The telephone corporation shall provide a copy of the template used for the three customer notice letters in each amended status area to all the following entities:

(1) The commission.

(2) The Members of the Legislature representing districts included in the amended status areas.

(3) Each city, county, or unincorporated town or village included in the amended status areas.

(e) In addition to the customer notice template described in subdivision (d), the telephone corporation shall file a Tier 1 advice letter with the commission to be effective on the date filed that reflects the amended status areas.

2878.5. (a) (1) A customer in a well-served area where a telephone corporation seeks to amend its status may do either of the following during the 90-day notice period before the effective date of the amended status:

(A) Choose an alternative voice service provided by the telephone corporation.

(B) Choose an alternative voice service provided by another service provider.

(2) (A) If the customer does not choose either option described in paragraph (1), the customer shall remain on their basic exchange service with the telephone corporation.

(B) The telephone corporation shall provide a customer remaining on their basic exchange service with two notice letters regarding the telephone corporation's transition from the current voice service, which transition shall occur no sooner than 12 months from the amended status effective date described in subdivision (a) of Section 2878.4 and after all state and federal regulatory requirements have been met. The notice letters shall be sent 30 days apart. Each notice letter shall include information

explaining the status of the customer's existing service and, if applicable, how the customer may seek the independent third-party review described in subdivision (b).

(b) (1) If a customer continues to subscribe to their basic exchange service with the telephone corporation for 12 months after the amended status effective date described in subdivision (a) of Section 2878.4 and, upon receipt of the notice letters required by subparagraph (B) of paragraph (2) of subdivision (a), is unable to obtain a comparatively priced alternative voice service, then the customer may submit a written request, pursuant to the instructions provided by the telephone corporation in the notice letters, seeking independent third-party review. The customer shall submit this written request no later than 60 days after the date of the second notice letter.

(2) No later than 30 days from receipt of the customer's written request, the telephone corporation shall submit to the executive director of the commission, or the executive director's designee, the identities of three entities qualified to conduct the independent third-party review. No later than 30 days after the identification, the executive director of the commission, or the executive director's designee, shall select one of the three identified entities to conduct the independent third-party review. The telephone corporation shall contract with the selected entity and pay for the independent third-party review.

(3) The entity selected pursuant to paragraph (2) shall determine whether or not a comparatively priced alternative voice service is available at the customer's address and shall report its determination to the customer, the telephone corporation, and to the executive director of the commission, or the executive director's designee, within 30 days after being requested to conduct a review under paragraph (2).

(4) If the independent third-party reviewer determines that a comparatively priced alternative voice service is not available at the customer address, the telephone corporation shall continue to provide the customer with the customer's basic exchange service at that address. If the telephone corporation can demonstrate that circumstances have changed at any time, the telephone corporation may submit a notice to the executive director of the commission, or the executive director's designee, identifying a comparatively

priced alternative voice service at the customer's address and restarting the process set forth in paragraph (2).

2878.6. (a) (1) The obligations in this section apply only to a telephone corporation that has received amended status.

(2) The obligations in this section apply for 10 years after a telephone corporation meets the requirements described in paragraph (1).

(b) (1) A telephone corporation that meets the requirements described in paragraph (1) of subdivision (a) shall provide alternative voice service to any residential consumer that is unable to obtain alternative voice service from any provider in the well-served area if both of the following occur:

(A) The residential consumer notifies the telephone corporation in writing that no alternative voice service is available in the well-served area.

(B) An independent third-party reviewer approved by the executive director of the commission or the executive director's designee determines that no alternative voice service is available in the well-served area.

(2) (A) No later than 30 days after the receipt of the residential consumer's written notification under subparagraph (A) of paragraph (1), the telephone corporation shall identify and submit to the executive director of the commission, or the executive director's designee, three entities qualified to conduct the independent third-party review.

(B) No later than 30 days after the identification and submission, the executive director of the commission, or the executive director's designee, shall select one of the three identified entities to conduct the independent third-party review.

(C) The telephone corporation shall contract with the selected entity and pay for the independent third-party review.

(D) The entity selected pursuant to subparagraph (B) shall determine whether or not an alternative voice service is available at the residential consumer's address and shall report its determination to the residential consumer, the telephone corporation, and to the executive director of the commission, or the executive director's designee, within 30 days after being requested to conduct a review under subparagraph (B).

(3) (A) When the telephone corporation can demonstrate that circumstances have changed, the telephone corporation may submit

a notice to the executive director of the commission, or the executive director's designee, that identifies an alternative voice service available at the residential consumer's location.

(B) The telephone corporation shall be relieved of the obligations under paragraph (1) of subdivision (b) if an independent third-party reviewer that is approved by the executive director of the commission, or the executive director's designee, determines that there is an alternative voice service available to the residential consumer.

2878.7. (a) This article does not confer regulatory authority to the commission over alternative voice services.

(b) As part of its Rulemaking 24-06-012 (June 20, 2024), Order Instituting Rulemaking Proceeding to Consider Changes to the Commission's Carrier of Last Resort Rules, the commission shall determine a transition plan that shall be followed before a telephone corporation may amend its status as a carrier of last resort in areas not described in Section 2878.3 or not well served by alternative voice services as described in Section 2878.4. The commission may consider input from stakeholders during this process, including representatives of public safety agencies. The commission shall issue its final decision on or before January 1, 2027.

2878.8. The Public Safety Agency Technology Upgrade Grant fund is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, the moneys in the fund are hereby continuously appropriated without regard to fiscal year to the commission for purposes of paragraph (6) of subdivision (b) of Section 2878.4. The fund may accept donations from nongovernmental entities

2878.9. (a) This article shall not apply to intrastate legacy time-division multiplexing services used to directly connect land mobile radio systems used for public safety.

(b) This article shall not apply to any inhabited island that is not part of the mainland area of the state and is not accessible by bridge or road, if any part of the island is well served.

~~2878.1. (a) (1) A telephone corporation seeking to relinquish its carrier of last resort designation for an eligible area within its service territory shall submit to the commission a notice. The telephone corporation's carrier of last resort designation for the~~

~~eligible area shall be relinquished upon the submission of the notice.~~

~~(2) A notice submitted pursuant to paragraph (1) shall include both of the following:~~

~~(A) A map of the eligible area covered by the notice, including the source and date for all data reflected in the map. The telephone corporation may use the most recent publicly available Federal Communications Commission or commission map showing fixed and wireless broadband coverage.~~

~~(B) A copy of the modified tariff described in subdivision (b).~~

~~(b) Notwithstanding any other law or commission decision, a telephone corporation, before submitting a notice pursuant to subdivision (a), shall modify its tariff for basic local exchange telephone service to align with its relinquishment of its carrier of last resort designation. The modified tariff shall be effective upon the submission of the notice pursuant to subdivision (a).~~

~~(c) (1) The telephone corporation shall administer and pay for a customer challenge process available to a customer who informs the telephone corporation that no alternative voice service is available at their location.~~

~~(2) The telephone corporation shall notify its customers of its customer challenge process.~~

~~(3) If a customer successfully challenges the availability of alternative voice service at their location, the telephone corporation shall continue to provide basic local exchange telephone service to the customer for at least two years after the challenge process is complete.~~

~~(d) This section does not confer regulatory authority to the commission over alternative voice service.~~

~~(e) As part of its Rulemaking 24-06-012 (June 20, 2024), Order Instituting Rulemaking Proceeding to Consider Changes to the Commission's Carrier of Last Resort Rules, the commission shall establish a transition plan that a telephone corporation shall be required to follow before its carrier of last resort designation is relinquished for an area within its service territory other than an eligible area. The commission may consider input from stakeholders, including representatives of public safety agencies, during that portion of the rulemaking.~~

SEC. 3. The Legislature finds and declares that Section 1 of this act, which adds subparagraph (C) of paragraph (1) of

subdivision (b) of Section 2878.4 of the Public Utilities Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

In order to order to protect the confidential and proprietary information of an entity subject to Section 1 of this act, it is necessary that this act limit the public's right of access to that information.

~~SEC. 3.~~

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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AB 614 (2025)
CIVIL JUSTICE EQUITY ACT

THIS BILL

AB 614 will align the statute of limitations for filing a claim to be consistent for all cases under the Government Claims Act. This bill will extend the filing time for claims requiring government reimbursement in cases of property damage, personal injury, or death from six months to one year.

BACKGROUND

The California Government Claims Act states how and when individuals can seek compensation from public entities. Under existing law, the filing timeline depends on the type of harm suffered. For claims involving property damage, personal injury, or death, victims are required to file a claim within six months of the incident. All other types of claims must be filed within one year.

An individual may file for a late claim deadline extension, but this requires a thorough understanding of the process and the ability to explain in detail the circumstances that warranted a late filing. Often, these claims are denied, as the court concludes that a claimant failed to make what they consider "reasonable efforts" to meet the deadline.

Victims who experience the most harm from government entities are the ones subject to harsh deadlines, including farmers who had their crops unlawfully seized and damaged, an injured child whose mother was killed in an automobile accident on a California highway, and a mother whose son was killed by police who used excessive force. In contrast, claims that are allowed a full year to file include government contractors seeking additional compensation, breaches of land contracts, or damage to a landlord's commercial real estate property.

PROBLEM

The six-month deadline for these claims creates significant barriers for victims and their families. Individuals recovering from serious injuries may be hospitalized, undergoing medical treatment, or physically incapacitated during the critical filing period. Families mourning the sudden loss of a loved one are often navigating funeral arrangements, managing their financial stability, and adjusting to life without their family member, leaving little time to pursue complex legal processes.

Preparing a government claim requires gathering evidence, obtaining records, and consulting with legal counsel familiar with government claims procedures.

For many people, finding and retaining an attorney is especially difficult within the narrow six-month timeframe. This procedural hurdle ultimately shields government agencies from accountability, allowing them to avoid responsibility for harm caused by their misconduct, negligence, or unlawful actions. This deadline deprives victims of their right to pursue fair compensation for medical bills, funeral expenses, lost wages, and property damage caused by government entities.

SOLUTION

AB 614 removes the current six-month deadline for claims involving death, personal injury, or property damage. It replaces it with a uniform filing deadline of one year for all claims under the Government Claims Act. This change ensures consistency and fairness, giving all claimants the exact reasonable amount of time to file their claims, regardless of the type of harm they suffered.

SUPPORT

Communities United for Restorative Youth Justice (Sponsor)
ACLU California Action
Consumer Attorneys of California
Disability Rights California
Initiate Justice

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AMENDED IN ASSEMBLY MARCH 27, 2025

CALIFORNIA LEGISLATURE—2025–26 REGULAR SESSION

ASSEMBLY BILL No. 614

Introduced by Assembly Member Lee

February 13, 2025

An act to amend Section 911.2 of the Government Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

AB 614, as amended, Lee. Claims against public entities.

Existing law, the Government Claims Act, establishes the liability and immunity of a public entity for its acts or omissions that cause harm to persons and requires that a claim against a public entity relating to a cause of action for death or for injury to person, personal property, or growing crops be presented not later than 6 months after accrual of the cause of action. Under existing law, claims relating to any other cause of action are required to be presented no later than one year after the accrual of the cause of action.

This bill would remove the provisions requiring a claim against a public entity relating to a cause of action for death or for injury to person, personal property, or growing crops to be presented not later than 6 months after accrual of the cause of action and would instead require a claim relating to any cause of action to be presented not later than one year after accrual of the cause of ~~action.~~ *action, unless otherwise specified by law.*

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

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

SECTION 1. Section 911.2 of the Government Code is amended to read:

911.2. (a) ~~A~~ *Unless otherwise specified by law, a* claim relating to any cause of action shall be presented as provided in Article 2 (commencing with Section 915) not later than one year after the accrual of the cause of action.

(b) For purposes of determining whether a claim was commenced within the period provided by law, the date the claim was presented to the Department of General Services is one of the following:

(1) The date the claim is submitted with a twenty-five dollar ($25) filing fee.

(2) If a fee waiver is granted, the date the claim was submitted with the affidavit requesting the fee waiver.

(3) If a fee waiver is denied, the date the claim was submitted with the affidavit requesting the fee waiver, provided the filing fee is paid to the department within 10 calendar days of the mailing of the notice of the denial of the fee waiver.

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Date of Hearing: March 25, 2025

ASSEMBLY COMMITTEE ON JUDICIARY
Ash Kalra, Chair
AB 614 (Lee) – As Introduced February 13, 2025

As Proposed to be Amended

SUBJECT: CLAIMS AGAINST PUBLIC ENTITIES

KEY ISSUE: SHOULD THE GOVERNMENT CLAIMS ACT PRESENTATION TIMELINE BE MODIFIED SO THAT ALL CLAIMS AGAINST GOVERNMENT ENTITIES MUST BE PRESENTED TO THE GOVERNMENT WITHIN ONE YEAR OF ACCRUAL?

SYNOPSIS

Procedures for filing legal claims against government entities have existed in California statute, in some form, since the 1850s. The modern Government Claims Act was adopted in the late 1950s. Unlike traditional tort claims, claims against government entities must first be presented to the government entity who may then choose to settle or reject the claim. Only once a claim is rejected can a claim against a government entity proceed to the civil justice system. Under existing law, most claims against the government must be presented to the government within one year of the claim accruing. However, claims for death or for injury to persons or to personal property or growing crops must be presented within six months of accrual.

This measure seeks to standardize the presentation timeline for all government claims. The bill opts to adopt the longer one year claim presentation timeline as the new standard for all claims against the government. The bill, as proposed to be amended, clarifies that the new timeline should not impact any statutes with more specific claim timelines or those exempt from the claim presentation requirements.

This bill is sponsored by Communities United for Restorative Youth Justice and is supported by a coalition of civil and consumer rights organizations. The proponents of this bill contend that the existing six month presentation timeline for injury cases is too short, and that this timeline disproportionately harms disabled Californians and Californians of color. This bill is strongly opposed by a coalition of local governments and their insurance providers. The opposition contends that this bill will further exacerbate the growing insurance cost crisis plaguing local agencies in California. The opposition also believes that this bill will fail to help those the proponents seek to assist; and that the bill will cause harm to all Californians by hindering local agencies ability to respond to potentially dangerous conditions within the local government's jurisdiction. Although proposed amendments address technical issues raised by some stakeholders, they do not mollify the opposition's primary concerns.

SUMMARY: Expands the period of time for presenting claims to a government entity for damages as a result of death or for injury to persons or to personal property or growing crops from six months to one year. Specifically, **this bill** provides that, unless otherwise specified in law, all claims against a government entity must be presented to the government entity not later than one year after the accrual of the cause of action.

EXISTING LAW:

1) Establishes the Government Claims Act that outlines the process for filing civil legal claims against state and local government entities. (Government Code Section 810 *et seq*.)

2) Requires a claim against a public agency to be presented by the claimant or by a person acting on their behalf to the government entity and show all of the following:

   a) The name and post office address of the claimant;

   b) The post office address to which the person presenting the claim desires notices to be sent;

   c) The date, place and other circumstances of the occurrence or transaction which gave rise to the claim asserted;

   d) A general description of the indebtedness, obligation, injury, damage or loss incurred so far as it may be known at the time of presentation of the claim;

   e) The name or names of the public employee or employees causing the injury, damage, or loss, if known; and

   f) The amount claimed if it totals less than ten thousand dollars ($10,000) as of the date of presentation of the claim, including the estimated amount of any prospective injury, damage, or loss, insofar as it may be known at the time of the presentation of the claim, together with the basis of computation of the amount claimed. (Government Code Section 910.)

3) If the amount claimed exceeds ten thousand dollars ($10,000), no dollar amount should be included in the claim. (*Ibid.*)

4) Requires a claim against a government entity relating to a cause of action for death or for injury to person or to personal property or growing crops must be presented to the government entity not later than six months after the accrual of the cause of action and that a claim relating to any other cause of action must be presented within one year of the accrual of the cause of action. (Government Code Section 911.2.)

5) Provides that the following claims do not need to be presented to a government entity before asserting a request for monetary damages:

   a) Claims under the Revenue and Taxation Code or other statute prescribing procedures for the refund, rebate, exemption, cancellation, amendment, modification, or adjustment of any tax, assessment, fee, or charge or any portion of the charge, or of any penalties, costs, or related charges;

   b) Claims in connection with the filing of a notice of lien, statement of claim, or stop notice that is required under any law relating to liens of mechanics, laborers, or materialmen;

   c) Claims by public employees for fees, salaries, wages, mileage, or other expenses and allowances;

d) Claims for workers' compensation, as specified;

e) Applications or claims for any form of public assistance under the Welfare and Institutions Code or other provisions of law relating to public assistance programs, and claims for goods, services, provisions, or other assistance rendered for or on behalf of any recipient of any form of public assistance;

f) Applications or claims for money or benefits under any public retirement or pension system;

g) Claims for principal or interest upon any bonds, notes, warrants, or other evidences of indebtedness;

h) Claims that relate to a special assessment constituting a specific lien against the property assessed and that are payable from the proceeds of the assessment, by offset of a claim for damages against it or by delivery of any warrant or bonds representing it;

i) Claims by the state or by a state department or agency or by another local public entity or by a judicial branch entity;

j) Claims arising under any provision of the Unemployment Insurance Code, including, but not limited to, claims for money or benefits, or for refunds or credits of employer or worker contributions, penalties, or interest, or for refunds to workers of deductions from wages in excess of the amount prescribed;

k) Claims for the recovery of penalties or forfeitures made in accordance with specified provisions of the Labor Code;

l) Claims governed by the Pedestrian Mall Law of 1960, as specified;

m) Claims made for the recovery of damages suffered as a result of childhood sexual assault, as specified; and

n) Claims made pursuant to the Education Code for reimbursement of pupil fees for participation in educational activities. (Government Code Section 905.)

6) Provides that all persons within the jurisdiction of this state have the right to be free from any violence, or intimidation by threat of violence, committed against their persons or property because of political affiliation, or on account of any characteristic listed or defined in the Unruh Civil Rights Act, or position in a labor dispute, or because another person perceives them to have one or more of those characteristics. (Civil Code Section 51.7.)

7) Provides, pursuant to federal law, that every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, is to be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall

not be granted unless a declaratory decree was violated or declaratory relief was unavailable. (42 US Code Section 1983.)

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

COMMENTS: Unlike traditional civil actions, in which a plaintiff directly files suit against an alleged defendant, claims against government entities are subject to unique timelines and processes. These processes are enumerated in the Government Claims Act. (Government Code Section 810 *et seq*.) Most claims against government entities must be presented to the government entity within one year of the claim's accrual. However, since the 1950s, claims related to death or for injury to person or to personal property or growing crops must be presented within six months of accrual. The author and proponents of this measure contend this six month timeline is too short, especially in light of the potential injuries and trauma suffered by would-be plaintiffs. Accordingly, seeking to standardize timelines in the Government Claims Act, this bill would provide that all claims for damages against a government entity must be presented to the government entity within one year of the claim's accrual. In support of this measure the author states:

> Filing a claim against a public entity is a complex and burdensome process. Victims must first research if they have a valid claim and find the correct agency to file with. They then must gather necessary evidence and track strict deadlines, which often requires finding legal representation. The current six-month deadline for claims involving property damage, injury, or death creates an unnecessary and unreasonable obstacle to those seeking justice. Many people dealing with medical recovery, emotional distress, or financial hardship are unable to meet this short timeframe, forcing them to either rush through the process or forfeit their right to seek redress.
>
> By extending the filing deadline from six months to one year, AB 614 ensures that individuals have time to understand their legal options, secure representation, and gather the necessary evidence. AB 614 upholds access to justice for all Californians by providing a reasonable and equitable opportunity to hold public entities accountable for harm.

The history of, and justification for, the Government Claims Act. According to the California Law Revision Commission, the origins of the state's Government Claims Act date back to 1855. (Recommendation and Study relating to The Presentation of Claims Against Public Entities (Jan 1959) 25 Cal. Law Revision Com. Rep. (1959) at page A-7.) However, until the 1950s, the Legislature enacted standalone statutes governing individual types of claims against government entities. As a result of the piecemeal approach to addressing government claims, by 1955, more than 174 individual statutes addressed unique claims against the government. Seeking to streamline and consolidate these code sections, in 1956 the Legislature tasked the California Law Revision Commission with examining how to clarify the various code sections dealing with claims against the government. (ACR 12 (Smith) Res. Chap. 35, Stats. 1956.) In revising the government claims laws, the California Law Revision Commission was guided by the two primary policy goals of all government claims presentation statutes: first, that government entities should be given the opportunity to make early investigations into potential legal claims; and secondly, that government entities should strive to settle claims in a timely manner before lawsuits are formally filed. (Recommendation and Study relating to The Presentation of Claims Against Public Entities (Jan 1959) 25 Cal. Law Revision Com. Rep., *supra.*) One of the primary methods that the California Law Revision Commission managed to streamline the codes related

to government claims was to essentially merge the existing code sections related to claims against local governments into the code managing claims against the state to create one unified government claims presentation process. (*Id.* at A-12.)

A critical aspect of the Government Claims Act, when compared to traditional tort claims, is the claims against government entities must first be "presented" to the government. Only once the government rejects or ignores a claim for 45-days may a plaintiff file suit in court. The failure to "present" the claim to the government prior to filing suit will bar the ultimate ability for the plaintiff to pursue the claim in court.

Of note to this bill, when presented with the question as to how to determine the time for presenting claims, the California Law Revision Commission recommended, "a single uniform filing time be prescribed for all type of claims covered by the act." (*Id.* at A-124.) The Commission then recommended that all claims be presented within six months of accrual. (*Id.* at 125.) However, it appears that as a result of public comment, largely from local governments, contract and other non-injury related claims were provided the one-year accrual period found in existing law when the Legislature ultimately acted on the Commission's recommendations (see County Auditors Association public comment letter to California Law Revision Commission's report available at: https://clrc.ca.gov/pub/1959/M59-0404b.pdf.) The longer presentation timeline stemmed from a desire to permit local agencies sufficient time to analyze the copious amounts of paper records that were then required to review such claims. Accordingly, tort claims for injury and wrongful death have been subject to the present six-month presentation requirement for nearly 70 years.

This bill standardizes Government Claims Act presentation timelines. Seeking to reduce confusion resulting from different presentation deadlines, and to provide greater time for investigating and compiling evidence in all government tort claims, this bill would provide that most claims against government entities must be presented with one-year of the claim's accrual. Recognizing that not all claims against government entities require presentation, proposed amendments ensure that the bill does not inadvertently affect other statutes of limitation provided in law.

Proponents of this bill argue that six months is insufficient time for many Californians to successfully file claims against government entities. The proponents of this bill, a coalition of civil rights, consumer rights, and criminal justice reform advocates, argue that the existing government claim presentation timeline is too short for victims of traumatic events. The sponsor of this bill, Communities United for Restorative Youth Justice, writes, "For serious harms such as injury and wrongful death, six months is an extremely short amount of time to find a reliable attorney, gather and preserve evidence, and file a claim, all while healing from injury or navigating the trauma and grief of losing a loved one."

In conversations with stakeholders, both those supporting and those opposing this bill, it is unclear how many claims are never filed due to the existing six-month presentation deadline, and thus this bill's impact on the overall *quantity* of claims filed is likely to be relatively minor. Indeed, one may surmise that because the existing timeline has existed for decades, that the existing timeline may not impede most claims from being filed. However, the legal practitioners who file these claims do authoritatively note that the six-month timeline may significantly hinder the *quality* of claims filed. Addressing this point, the Consumer Attorneys of California note, "the current law of six months can lead to premature filing of claims as victims may not have

time to adequately investigate cases but are faced with an arbitrary timeframe to file." Although the existing law may not be hindering most claims from being presented to government agencies, the existing law may well be resulting in claims being filed that are poorly drafted or filed without a full understanding of all relevant evidence. If the existing law is resulting in a preponderance of poorly or prematurely filed claims, the current six-moth presentation timeline may inadvertently result in delaying timely settlements in clear-cut cases, forcing parties into protracted discovery, and generally increasing litigation costs for all parties.

Opponents of this measure contend that the bill, in practice, will not help the very Californians the proponents seek to assist. This measure is, unsurprisingly, opposed by a coalition of local government agencies. They contend that while this bill seeks to help the most vulnerable Californians who have been injured by an act of an agent of the government the bill instead, "provides little benefit to a claimant, and increases both the burden on public entities and hazards to the public." The opposition puts forward several points to buttress this claim. First, the opponents to this measure note that one of the goals of the Government Claims Act is to ensure that a government entity is quickly alerted to "dangerous practices or property conditions may continue to injure others unless quickly remedied." While there is little doubt that government agencies should quickly move to address potential hazards to the public, given the significant improvement in technology since the 1950s reforms to the Government Claims Act, including social media, one may wonder how much the current six-month claim presentation timeline is actually needed to alert government agencies to hazards. For example, most members of the public can report a cracked or defective sidewalk before any injury occurs by using government operated "311" smartphone applications or simply posting videos of the hazard to social media.

The second argument that this bill harms the very members of the public it seeks to serve relates to the preservation and collection of evidence following a tort. The opposition cites the aforementioned 1959 California Law Revision Commission study and notes, "Evidence relating to liability or non-liability in such cases is often solely, or largely, in the form of oral testimony of witnesses. The advantages of early interview before memories grow dim are considerable." Again this argument was more compelling in the 1950s than the 2020s. Although witness testimony is still critical in many tort cases, the widespread deployment of surveillance technology, including security cameras, helps alleviate the reliance on witnesses alone. Additionally, digitized medical records and similar technologies help create a far more robust and easily accessible litigation record than one could craft in the 1950s. Nonetheless, the local agencies do raise a strong point that the existing six-month timeline helps agencies conduct their own investigations into alleged injuries and can prompt faster resolution of these matters.

The final argument that the measure is counterproductive to those it's designed to help is based on the perception that the proponents of this bill seek to address harm targeted toward underserved and predominantly minority communities, including claims related to police brutality and other forms of violence committed by government actors. The opponents rightfully note that many claims related to injuries stemming from a plaintiff's protected status frequently are litigated under federal law, specifically 42 U.S. Code Section 1983, and not the Government Claims Act. While this is true, it is also true that tort victims from underrepresented frequently struggle to find counsel, especially when language barriers exist. However, the opposition is correct in noting that an additional six months to file claims against the government may not remedy these systematic issues that tend to plague the civil justice system writ large.

Opponents of this measure contend that regardless of how many new claims are actually generated by this measure, it exposes local governments to increased costs. The opponents of this measure also highlight the crisis plaguing the insurance markets for local agencies. As a result of legislation reviving lapsed sexual assault claims as well as a litany of local agencies facing scandals and lawsuits related to conditions in county detention facilities, local governments are finding the cost of liability insurance increasingly excessive. While most stakeholders agree that this measure is unlikely to result in a significant increase in the overall amount of claims filed against the government, the opponents to this bill note that the extra six months of legal exposure contemplated by this bill will be priced into their insurance premiums.

Undoubtedly, California's local governments are struggling to maintain vital services in the face of rising insurance costs. However, these costs are largely driven by actual liability incurred by the local agencies as a result of harms their employees and agents inflicted on their own citizens. While keeping cost pressures on local agencies to a minimum is critical, especially in the new era of austerity from the federal government, ensuring that tort victims are made whole is an equally compelling public policy interest. Accordingly, eliminating the discrepancy in the existing Government Claims Act presentation timeline is certainly a worthy goal. However, *the author may wish to consider whether the public's interest would be better served if the deadline for all claims was six months rather than twelve months.* Nonetheless, given the lack of clear data reflecting the actual costs this measure may impose on local agencies (including potential savings offsets from reduced discovery and litigation), as well as the overwhelming need to ensure victims are made whole, the Committee does not see a need to amend the bill to a uniform six month timeline at this juncture.

Proposed amendments clarify that this bill does not shorten litigation timelines for claims not subject to the Government Claims Act. Several stakeholders representing government employees contacted the Committee regarding concerns about how the language currently in print would impact cases *not* subject to the presentation requirements of the Government Claims Act, specifically claims arising under the Fair Employment and Housing Act. Notably, the Fair Employment and Housing Act is not explicitly excluded from the claims presentation requirements of the Government Claims Act (Government Code Section 905.) However, California courts have noted that because the Fair Employment and Housing Act is a standalone and comprehensive "statutory scheme to combat employment discrimination" it is exempt from the presentation requirement of the Government Claims Act. (*Snipes v. City of Bakersfield* (1983) 145 Cal.App.3d 861, 863.) Additionally, the Fair Employment and Housing Act is not the only specific statutory scheme to receive a statutory or judicial exemption from the Government Claims Act. The author notes that this bill is not intended to supersede more specific statutory claim timelines. Accordingly, to clarify that this bill is not intended to reverse other statutory timelines or case law, the author is proposing the following amendment:

> **Government Code Section 911.2.** (a) ***Unless otherwise specified by law, a*** ~~**A**~~ claim relating to any cause of action shall be presented as provided in Article 2 (commencing with Section 915) not later than one year after the accrual of the cause of action.

The above-mentioned stakeholders representing government employees have informed the Committee that this amendment should address their concerns.

ARGUMENTS IN SUPPORT*:* This measure is sponsored by Communities United for Restorative Youth Justice and the bill is supported by a coalition of criminal justice reform

advocates, disability rights advocates, and consumer groups. In support of the bill, Communities United for Restorative Youth Justice writes:

> The California Government Claims Act (CGCA) has a strict, burdensome, and unequal statute of limitations for individuals pursuing state civil claims for compensation against government entities. Failing to meet these strict requirements can foreclose any opportunity to pursue justice even when the claim has merit. To make matters worse, people who experience the most egregious harms must meet the most stringent time constraints.
>
> Under current law, anyone attempting to initiate a CGCA claim for damages against a government official or entity must file an administrative complaint within one year of the incident. Yet, if the person was injured or killed, or their property was damaged, they only have six months from the date of the incident to file a complaint, leading to an imbalance of justice. If they fail to meet this deadline, they are denied the right to pursue legal action.
>
> The importance of this time extension cannot be understated. For serious harms such as injury and wrongful death, six months is an extremely short amount of time to find a reliable attorney, gather and preserve evidence, and file a claim, all while healing from injury or navigating the trauma and grief of losing a loved one. For people unfamiliar with the legal system, who come from marginalized communities, or have limited resources, this barrier is especially difficult.

Additionally, Disability Rights California notes:

> People with disabilities, especially people of color with disabilities, experience disproportionate violence, harm, and death caused by government actors. In addition, people with disabilities often face unique and significant challenges when navigating the inaccessible legal system. Extending the statute of limitations to one year under AB 614 would provide individuals with disabilities a fairer opportunity to pursue justice and secure appropriate support and services.

***ARGUMENTS IN OPPOSITION**:* This bill is stridently opposed by a coalition of local governments and their property-casualty insurance providers. The opposition coalition jointly writes:

> Public entities are required to comply with an administrative claims process. A claimant injured by a public entity must first file a claim with the public entity before filing a civil lawsuit. A claimant can file their suit if their claim is rejected by the public entity, or is deemed rejected 45 days after they filed their claim, whichever is sooner. As explained by the California Law Revision Commission in the 1963 report that recommended adoption of the current Government Claims Act, "Claims statutes have two principal purposes. First, they give the governmental entity an opportunity to settle just claims before suit is brought. Second, they permit the entity to make an early investigation of the facts on which a claim is based, thus enabling it to defend itself against unjust claims and to correct the conditions or practices which gave rise to the claim."
>
> Extending the tort claim process timeline from six months to one year provides little benefit to a claimant, and increases both the burden on public entities and hazards to the public. As noted, the tort claim process exists in part to provide public entities with notice of a potential claim and lawsuit so they may conduct their own internal investigation, collect and preserve

evidence, and resolve claims and suits more quickly and efficiently. A longer claim process lengthens and Increases costs for all these activities, particularly for litigation costs. Retaining legal counsel in anticipation of a claim is a major cost for public entities. Delaying the start of the claim process puts evidence that is necessary to defend a potential claim or suit at risk of becoming stale. A lack of evidence could be the difference in successfully defending a lawsuit or having to settle an unmeritorious claim. Just as importantly, delaying the initial claim filing hinders the prompt correction of dangerous conditions, with obvious – and immediate – negative consequences for public safety.

The Government Claims Act outlines a process to file a late claim within a year of the date of injury. These provisions allow more liberal time allowances in cases for a late filing of a claim upon a showing of cause. The existing structure of the Government Claims Act has effectively balanced the foregoing policies with the need to provide some "[r]elief for persons who could not reasonably have been expected to present a claim" *for over 60 years*, and there is no cogent reason for disturbing this well-settled area of law now.

Finally, the more legal risk that public entities face, the higher their liability insurance premiums. The time it takes to resolve claims, and the ultimate cost of litigation and settlements significantly impact these premiums. Furthermore, liability insurers are already facing significant cost pressures to continue offering coverage in California. Most public sector entities obtain liability insurance through a Joint Powers Authority risk sharing pool funded by the public agencies themselves. These increased premiums directly impact jurisdiction's ability to fund direct services. By extending the claim timeline, AB 614 only increases this pressure.

REGISTERED SUPPORT / OPPOSITION:

Support

Communities United for Restorative Youth Justice (sponsor)
ACLU California Action
All of Us or None Los Angeles
Alliance for Boys and Men of Color
Asian Prisoner Support Committee
California Alliance for Youth and Community Justice
Consumer Attorneys of California
Courage California
Disability Rights California
Initiate Justice
Initiate Justice Action
Legal Aid At Work
Legal Services for Prisoners With Children
Milpa Collective
Silicon Valley De-bug
Sister Warriors Freedom Coalition
Urban Peace Movement

Opposition

Association of California Healthcare Districts
California Association of Joint Powers Authorities
California State Association of Counties
League of California Cities
Public Risk Innovation, Solutions, and Management
Rural County Representatives of California
Schools Excess Liability Fund
Urban Counties of California

Analysis Prepared by: Nicholas Liedtke / JUD. / (916) 319-2334

AB 614: Claims against public entities.

Date	Result	Location	Ayes	Noes	Abstain/Absent	Motion
3/25/2025	P	ASM. JUD.	11	0	1	Do pass as amended and be re-referred to the Committee on [Appropriations] (PASS)

AYES: Bauer-Kahan, Rebecca Bryan, Isaac Connolly, Damon Essayli, Bill (Terminated) Harabedian, John Kalra, Ash Pacheco, Blanca Papan, Diane Sanchez, Kate Stefani, Catherine Zbur, Rick Chavez

NOES:

ABSTAIN/ABSENT: Dixon, Diane

March 18, 2025

The Honorable Ash Kalra
Chair, Assembly Judiciary Committee
1020 N Street, Room 104
Sacramento, CA 95814

RE: Assembly Bill 614 (Lee) – OPPOSE
As Introduced on February 13, 2025

Dear Chair Kalra,

On behalf of the Rural County Representatives of California (RCRC), California State Association of Counties (CSAC), Urban Counties of California (UCC) the League of California Cities (Cal Cities), Association of California Healthcare Districts (ACHD), Public Risk Innovation, Solutions, and Management (PRISM), California Association of Joint Powers Authorities (CAJPA), and School Excess Liability Fund (SELF), we write in respectful opposition to Assembly Bill 614 (Lee). This measure extends the timeframe from six months to one year for a person to file a tort claim for damages related to death or injury, personal property damage, or damage to growing crops.

Public entities are required to comply with an administrative claims process. A claimant injured by a public entity must first file a claim with the public entity before filing a civil lawsuit. A claimant can file their suit if their claim is rejected by the public entity, or is deemed rejected 45 days after they filed their claim, whichever is sooner. As explained by the California Law Revision Commission in the 1963 report that recommended adoption of the current Government Claims Act:

> "Claims statutes have two principal purposes. First, they give the governmental entity an opportunity to settle just claims before suit is brought. Second, they permit the entity to make an early investigation of the facts on which a claim is based, thus enabling it to defend itself against unjust claims and to correct the conditions or practices which gave rise to the claim."[1]

[1] Recommendation Relating to Sovereign Immunity, No. 2 — Claims, Actions and Judgments Against Public Entities and Public Employees (Jan. 1963) 4 Cal. Law Revision Com. Rep. (1963) p. 1008.

The first rationale applies equally to all claims against public entities, including contract claims presently subject to a longer, one-year claims filing period. However, the second applies especially to tort claims – for which a *shorter period* has consequently been provided by state law since the first comprehensive local government claims statute was adopted *in 1959*.[2]

> "For example, when personal injury or property damage has resulted from alleged ordinary negligence by a public employee, the policy in favor of prompt filing of a claim in order to allow for early investigation of the facts seems to be at its peak. Evidence relating to liability or non-liability in such cases is often solely, or largely, in the form of oral testimony of witnesses. The advantages of early interview before memories grow dim are considerable."[3]

Moreover, the need for *prompt corrective action* is critical in tort matters, where dangerous practices or property conditions may continue to injure others unless quickly remedied – and the public entity cannot correct conditions that are not brought to its attention.

Extending the tort claim process timeline from six months to one year provides little benefit to a claimant, and increases both the burden on public entities and hazards to the public. As noted, the tort claim process exists in part to provide public entities with notice of a potential claim and lawsuit so they may conduct their own internal investigation, collect and preserve evidence, and resolve claims and suits more quickly and efficiently. A longer claim process lengthens and increases costs for all these activities, particularly for litigation costs. Retaining legal counsel in anticipation of a claim is a major cost for public entities. Delaying the start of the claim process puts evidence that is necessary to defend a potential claim or suit at risk of becoming stale. A lack of evidence could be the difference in successfully defending a lawsuit or having to settle an unmeritorious claim. Just as importantly, delaying the initial claim filing hinders the prompt correction of dangerous conditions, with obvious – and immediate – negative consequences for public safety.

The Government Claims Act outlines a process to file a late claim within a year of the date of injury. These provisions allow more liberal time allowances in cases for a late filing of a claim upon a showing of cause. The existing structure of the Government Claims Act has effectively balanced the foregoing policies with the need to provide some "[r]elief for persons who could not reasonably have been expected to present a claim"[4] *for over 60 years*, and there is no cogent reason for disturbing this well-settled area of law now.

Finally, the more legal risk that public entities face, the higher their liability insurance premiums. The time it takes to resolve claims, and the ultimate cost of litigation and settlements significantly impact these premiums. Furthermore, liability insurers are already facing significant cost pressures to continue offering coverage in California. Most public sector entities obtain liability insurance through a Joint Powers Authority risk sharing pool funded by the public agencies themselves. These increased premiums directly impact jurisdiction's ability to fund direct services. By extending the claim timeline, AB 614 only increases this pressure.

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[2] Stats. 1959, ch. 1724 § 1 (former Gov. Code, § 715).

[3] Recommendation and Study Relating to the Presentation of Claims Against Public Entities (Jan. 1959) 2 Cal. Law Revision Com. Rep. (1959) p. A-52.

[4] Recommendation Relating to Sovereign Immunity, No. 2, *supra,* 4 Cal. Law Revision Com. Rep. at p. 1009.

For these reasons, we respectfully oppose AB 614 (Lee). If you have any questions, please do not hesitate to contact our organizations' representatives directly.

Sincerely,

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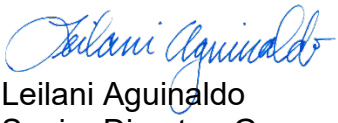

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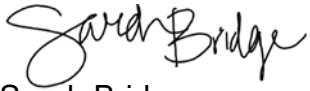

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cc: The Honorable Alex Lee, Member of the California State Assembly
Members of the Assembly Judiciary Committee
Nicholas Liedtke, Deputy Chief Counsel, Assembly Judiciary Committee
Daryl Thomas, Consultant, Assembly Republican Caucus

AB 1005 – Drowning Prevention

Drowning Prevention and Water Safety Education

SUMMARY

To prevent drownings, AB 1005 seeks to bring drowning prevention information to parents and children by partnering with schools to increase knowledge, informing parents where in their community they can get access to swim lessons, and increasing access for underserved communities to participate in lessons. This bill also defines swim lessons as an essential public health service. Increasing a child's awareness of water safety at a young age, as well as expanding access to swim lessons, are key prevention tools. Having swim skills reduces drowning events by 88%.

BACKGROUND

Since 1991, drowning has taken the lives of more than 12,500 Californians.[1] Drowning is the leading cause of death for California children aged 1-4 years, the second leading cause of death for children ages 5-14, and the third leading cause of death for California's teens and youth.[2] Crucially, drowning disproportionally affects communities of color and low-income families.

Drowning is medically defined as the process of experiencing respiratory impairment from submersion or immersion in liquid, leading to hypoxia, or lack of oxygen to the brain. For children aged 1-4 years old, most incidents of drowning occur in residential pools. Teens and youth, however, are more likely to drown in open bodies of water (i.e., lakes, rivers, oceans, etc.). Drowning can be fatal or non-fatal, but still lead to serious brain injury.

For every child who dies from drowning, another ten receive emergency care for non-fatal drowning.[3] Non-fatal drowning can result in long-term health problems and costly hospital stays. More than 28% of drownings treated in emergency departments require hospitalization or transfer for further care…

[1] WHO Global Health Estimates 2019

[2] Department of Developmental Services, CA DPH EPICenter and CDC WISQARS

[3] CDC | Drowning Facts

…compared with 8% for all unintentional injuries.[4] Brain injuries caused by non-fatal drowning can cause irreversible brain damage and other serious outcomes, which can lead to lifelong learning deficiencies and other physical impairments.

Improving water safety knowledge and teaching swim skills are a keyway to reduce drowning. Studies show that individuals with these skills are up to 88% less likely to suffer a drowning incident.[5]

THE PROBLEM

Current law does not "authorize" or provide uniform authority for schools to partner with local, state, and national drowning prevention organizations or children's safety organizations to help reach parents/caregivers with information on water safety and where to access swim lessons. As a result, it takes a school several months of administration work to allow a school's principal, or vice principal to partner with local drowning prevention or children's safety organization to provide education and information on water safety and drowning prevention to the school's parents. In addition, swimming lessons are not currently codified as an essential public health service for all ages. Even though having swim skills prevents drowning by up to 88% swim lesson programs are not considered important public health services or actions like child car safety seats, vaccines, CPR skills, etc.

THE SOLUTION

AB 1005 will authorize schools to work with designated drowning prevention organizations to provide drowning prevention education to parents and families at no cost to the school. It also requires the organization working with the schools to provide parents with information on accessing local swim lessons for their children. Expands California's existing aquatic curriculum in the Education Code to cover not just grades 9th through 12th but 1st through 12th grades. Increases

[4] CDC | Drowning Facts

[5] "Association Between Swimming Lessons and Drowning in Childhood"

accessibility to swim lessons through a voucher program for underserved communities. This legislation will also codify the 2021 declaration by the Secretary of Health and Human Services and the Department of Public Health that, due to the positive impact swim skills have on reducing drowning by 88%, swimming lessons for all ages of children are deemed "essential public health services".

SUPPORT

Drowning Prevention Foundation (Co-sponsor)
California Coalition for Children's Safety and Health (Co-sponsor)
Children's Advocacy Institute, University San Diego School of Law
CA Pool and Spa Association
Personal Insurance Federal of California
Association of CA Life Health Insurance Companies
Drowning prevention organizations
Affected families who have lost a child to drowning.

FOR MORE INFORMATION

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Or
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Marcia Kerr, Drowning Prevention Foundation
Mkerr44@gmail.com

AMENDED IN ASSEMBLY MARCH 25, 2025

CALIFORNIA LEGISLATURE—2025–26 REGULAR SESSION

ASSEMBLY BILL No. 1005

Introduced by Assembly Member Davies

February 20, 2025

An act to amend Sections 51140 and 51890 of, and to add Sections 51139, 51141, 51142, and 51900.1 to, the Education Code, *and* to add ~~Section~~ *Sections* 116036 *and 116064.3* to the Health and Safety Code, ~~and to add Section 515 to the Public Resources Code,~~ relating to drowning prevention.

LEGISLATIVE COUNSEL'S DIGEST

AB 1005, as amended, Davies. Drowning prevention: public schools: informational materials: ~~swimming~~ *swim* lesson ~~vouchers.~~ *vouchers and swim lesson directory.*

(1) Existing law authorizes specified drowning or injury prevention organizations (DIP organization) to provide informational materials, in electronic or hardcopy form, to a public school regarding specified topics relating to drowning prevention. Existing law expressly authorizes, beginning with the 2024–25 school year, upon receipt of the informational materials, a public school to provide the informational materials to parents, legal guardians, or caregivers of pupils at the time the pupil enrolls at the school and at the beginning of each school year.

This bill, beginning with the 2026–27 school year, would expressly authorize a public school to also provide those informational materials to parents, legal guardians, or caregivers of pupils at a period of time agreed upon between the public school and the DIP organization, except that the materials are prohibited from being provided later than the first week of May, as provided. The bill would provide restrictions on a DIP

organization that chooses to provide informational materials to a public school, including, among other things, that the DIP organization correspond only with a school administrator *or school entity authorized by a school district or school, as provided,* to request to work with the public school and that the DIP organization provide written evidence to the school administrator that demonstrates that the informational materials provided by the DIP organization align with the drowning, drowning prevention, water safety, *rescue,* and swim skills lesson information ~~of at least one expert organization, as defined.~~ *found on the drowning prevention web page of the federal Centers for Disease Control and Prevention, as provided.* The bill would provide that a school administrator who receives informational materials from multiple DIP organizations may consider specified factors when selecting which DIP organization to work with, as provided. The bill would provide that if a school administrator selects informational materials from a DIP organization for a given school year, other DIP organizations are prohibited from contesting those informational materials, as provided.

(2) Existing law requires the State Department of Education to prepare and distribute to school districts guidelines for the preparation of comprehensive health education plans, as provided. Existing law defines a "comprehensive" health education programs" as all educational programs offered in kindergarten and grades 1 to 12, inclusive, in the public school system, including in-class and out-of-class activities designed to, among other things, ensure that pupils receive instruction to aid them in making decisions in matters of personal, family, and community health, including, among other subjects, environmental health and safety and community health, as provided.

This bill would add water safety and drowning prevention to the list of the above-described subjects. The bill would require the department to gather and make available on its internet website, school-based water safety and prevention education resources and curriculum, as provided.

(3) Existing law ~~establishes the Natural Resources Agency, which consists of various departments, including the Department of Parks and Recreation. Existing law requires the Director of Parks and Recreation to establish the Outdoor Equity Grants Program to increase the ability of underserved and at-risk populations to participate in outdoor environmental educational experiences at state parks and other public lands where outdoor environmental education programs take place.~~ *requires the State Department of Public Health to adopt and enforce regulations relating to public swimming pools, as defined.*

This bill would establish the ~~Swimming~~ *Swim* Lesson Voucher ~~Pilot Program and require the department to administer the program,~~ *and Swim Lesson Directory Development Plan Partnership* for the ~~purpose~~ *purposes* of increasing water safety in this state by offering vouchers for ~~swimming~~ *swim* lessons at no cost to children under 18 years of age whose families have an income of no more than 250% of the federal poverty ~~level.~~ *level and making it easier for parents, caregivers, and guardians to access swim lessons for their children, as provided. The bill would require the partnership to consist of no more than 10 members and be composed of representatives of California's local parks and recreation district leadership, as identified by the California Association of Recreation and Park Districts and appointed by the Governor, state agencies with experience in water safety or drowning prevention, as appointed by the Governor, and experts in drowning prevention identified by the Drowning Prevention Foundation and appointed by the Governor.* The bill would require the ~~department, in administering the program,~~ *partnership* to, among other things, (A) develop *model* written agreements ~~with, and~~ *to* establish a network ~~of, swimming~~ *of public and private swim* lesson *programs and swim lesson* vendors that accept ~~swimming lesson~~ vouchers ~~offered by the program~~ in exchange for providing ~~swimming~~ *swim* lessons, (B) establish ~~the~~ *a model* application method and eligibility criteria for ~~swimming~~ *swim* lesson vouchers, (C) develop, in consultation with ~~a specified foundation,~~ *other organizations,* a free and publicly accessible online statewide directory of swim lesson programs, listed by county, and (D) *make recommendations and an action plan to* seek various contributors that will fund or match funds to cover the cost of the ~~program~~ *voucher programs* and the development of the online statewide directory. The bill would ~~authorize~~ *require* the ~~department~~ *partnership* to ~~administer~~ *provide directions and options for administering* the *voucher* program *and swim lesson directory* through ~~regional~~ *a combination of state and regional* public or private ~~partners, or both.~~ *partners.* The bill would make implementation of these provisions contingent upon an appropriation for these purposes in the annual Budget Act or another statute or as otherwise provided.

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

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

SECTION 1. The Legislature finds and declares all of the following:

(a) In California, drowning is ~~a~~ *the* leading cause of death ~~and hospitalizations~~ for children 1 to 4 years of age, inclusive, the second leading cause of death for children 5 to 14 years of age, inclusive, and the third leading cause of death for teenagers and youth 15 to 24 years of age, inclusive.

(b) Drowning can be prevented by increasing the knowledge of parents, caregivers, and pupils regarding water safety and competency in swimming skills. National and international research shows that water safety and swimming skills are up to 88 percent effective in preventing drowning.

(c) A critical step in the statewide strategic plan to make drowning a rare and survivable event is to increase access to swim lessons to achieve an end goal of making everyone in California a swimmer and knowledgeable about drowning, drowning prevention, and water safety.

(d) Partnering California's public schools with the state's many local, state, and national swim lesson programs and drowning prevention organizations provides a cost-effective means of reaching all California parents, guardians, caregivers, and children with lifesaving drowning prevention and water safety knowledge.

(e) Drowning prevention classes, including swim lessons with certified instructors, have been declared essential public health services by the Secretary of California Health and Human Services and the State Department of Public Health because of the impact that swim skills have on drowning prevention.

SEC. 2. Section 51139 is added to the Education Code, immediately preceding Section 51140, to read:

51139. For purposes of this article, all of the following definitions apply:

~~(a) "Drowning or injury prevention organization" means a local, state, or national drowning or injury prevention organization that is affiliated with one or more expert organizations.~~

~~(b) "Expert organization" means any of the following entities:~~

~~(1) The United States Coast Guard.~~

~~(2) The United States Consumer Product Safety Commission.~~

~~(3) The United States Lifesaving Association.~~

~~(4) The National Drowning Prevention Alliance.~~
~~(5) The American Academy of Pediatrics.~~
~~(6) The USA Swimming Foundation.~~
~~(7) Safe Kids Worldwide.~~
~~(8) The Pool & Hot Tub Alliance.~~
~~(9) Stop Drowning Now.~~
~~(10) The Drowning Prevention Foundation.~~
~~(11) The Jasper Ray Foundation.~~
~~(12) The Prevent Drowning Foundation of San Diego.~~
~~(c)~~
(a) "Public school" means a school operated by a school district, county office of education, or a charter school.
~~(d)~~
(b) "Water safety" means age-appropriate education intended (1) to promote safety in, on, and around bodies of water, including residential and public pools and spas, home water sources such as bathtubs, and open bodies of water such as lakes, rivers, canals, and the ocean, and (2) to reduce the risk of injury or drowning.

SEC. 3. Section 51140 of the Education Code is amended to read:

51140. (a) (1) A drowning or injury prevention organization may provide informational materials, in electronic or hardcopy form, to a public school that serves pupils in kindergarten or any of grades 1 to 12, inclusive, in accordance with the requirements of this article, regarding all of the following topics:

(A) The role that water safety education courses and ~~swimming~~ *swim* lessons play in drowning prevention and saving lives.

(B) Local water safety and swimming skills programs in the county and communities served by the public school, including free or reduced-price programs, and how to access information about age-appropriate public or private water safety courses and swimming skills programs that result in a certificate indicating successful completion.

(C) Contact information of the organization to receive further water safety education information.

(2) The informational materials shall not be used to solicit funding or donations for the organization.

(3) It is the intent of the Legislature that public schools that receive information pursuant to paragraph (1) facilitate the sharing

of that information with the parents, caregivers, or guardians of pupils.

(b) (1) For the 2024–25 and 2025–26 school years, upon receipt of the informational materials described in subdivision (a), a public school may provide the informational materials to parents, legal guardians, or caregivers of pupils at the time the pupil enrolls at the public school and at the beginning of each school year.

(2) (A) Beginning with the 2026–27 school year, upon receipt of the informational materials described in subdivision (a), a public school is authorized to provide the informational materials to parents, legal guardians, or caregivers of pupils at the time the pupil enrolls at the public school and at the beginning of each school year, or at a period of time agreed upon between the public school and the drowning or injury prevention organization, except as provided in subparagraph (B).

(B) The informational materials described in subdivision (a) shall not be provided later than the first week of May in the year that the informational materials were provided.

(c) Upon request by a public school, a drowning or injury prevention organization that elects to provide informational materials shall provide the informational materials in *English and is encouraged to provide informational materials in* the ~~three~~ *other* most commonly spoken languages associated with the population attending the ~~school.~~ *school based on available data from the department.*

SEC. 4. Section 51141 is added to the Education Code, immediately following Section 51140, to read:

51141. (a) A drowning or injury prevention organization that provides informational materials to a public school pursuant to this article shall adhere to all of the following:

(1) Correspond only with a school administrator *or school entity authorized by the school district or school, which also may include the school's parent-teacher association or an equivalent association,* to request to work with the public school.

(2) Approach the public school only during regular business hours or at a time outside of regular business hours as specified by a school administrator.

(3) Provide written ~~evidence~~ *evidence, in the form of a letter or document, either of which shall be no longer than one page,* to a school administrator that demonstrates that the informational

materials provided by the drowning or injury prevention organization align with the drowning, drowning prevention, water safety, *rescue,* and swim skills lesson information ~~of at least one expert organization.~~ *found on the drowning prevention web page of the federal Centers for Disease Control and Prevention, which includes evidence-based water safety and drowning prevention information vetted through such authorities on drowning and drowning prevention as the American Academy of Pediatrics and the American Red Cross, among other sources.*

(4) Provide printed informational materials, for any language, that are no larger than a legal size paper or are in a folded pamphlet ~~format.~~ *format, or online informational materials.*

(5) Provide informational materials at no cost to the public school.

(b) A school administrator *or school entity authorized by the school district or school, which also may include the school's parent-teacher association or an equivalent association,* that engages with a drowning or injury prevention organization pursuant to this article shall not be responsible for confirming the drowning or injury prevention organization's compliance with paragraphs (3) and (4) of subdivision (a).

SEC. 5. Section 51142 is added to the Education Code, immediately following Section 51141, to read:

51142. (a) A school administrator who receives informational materials from multiple drowning or injury prevention organizations pursuant to this article may consider both of the following factors when selecting which drowning or injury prevention organization to work with:

(1) Which drowning or injury prevention organization provides informational materials that are best suited for the public school's parent, guardian, and caregiver population and the families served by the public school.

(2) Which drowning or injury prevention organization can distribute informational materials in a manner that reduces the public school's role in distributing the informational materials, including, among other things, whether the proposed informational materials are in a printed or electronic format.

(b) If a school administrator selects informational materials pursuant to this article for a given school year, other drowning or injury prevention organizations shall not contest those

informational materials but may submit their own informational materials the following school year for the school administrator's consideration.

(c) This article shall not be construed to require a school administrator to work with any drowning or injury prevention organization.

SEC. 6. Section 51890 of the Education Code is amended to read:

51890. (a) For the purposes of this chapter, "comprehensive health education programs" are defined as all educational programs offered in kindergarten and grades 1 to 12, inclusive, in the public school system, including in-class and out-of-class activities designed to ensure that:

(1) Pupils will receive instruction to aid them in making decisions in matters of personal, family, and community health, to include the following subjects:

(A) The use of health care services and products.

(B) Mental and emotional health and development.

(C) Drug use and misuse, including the misuse of tobacco and alcohol.

(D) Family health and child development, including the legal and financial aspects and responsibilities of marriage and parenthood.

(E) Oral health, vision, and hearing.

(F) Nutrition, which may include related topics such as obesity and diabetes.

(G) Exercise, rest, and posture.

(H) Diseases and disorders, including sickle cell anemia and related genetic diseases and disorders.

(I) Environmental health and safety.

(J) Community health.

(K) Water safety and drowning prevention education.

(2) To the maximum extent possible, the instruction in health is structured to provide comprehensive education in health that includes all the subjects in paragraph (1).

(3) The community actively participates in the teaching of health including classroom participation by practicing professional health and safety personnel in the community.

(4) Pupils gain appreciation for the importance and value of lifelong health and the need for each individual to take responsibility for the individual's own health.

(5) School districts may voluntarily provide pupils with instruction on preventative health care, including obesity and diabetes prevention through nutrition education.

(b) Health care professionals, health care service plans, health care providers, and other entities participating in a voluntary initiative with a school district may not market their services when undertaking activities related to the initiative. For purposes of this subdivision, "marketing" is defined as making a communication about a product or service that is intended to encourage recipients of the communication to purchase or use the product or service. Health care or health education information provided in a brochure or pamphlet that contains the logo or name of a health care service plan or health care organization is not considered marketing if provided in coordination with the voluntary initiative. The marketing prohibitions contained in this subdivision do not apply to outreach, application assistance, and enrollment activities relating to federal, state, or county sponsored health care insurance programs that are conducted by health care professionals, health care service plans, health care providers, and other entities if the activities are conducted in compliance with the statutory, regulatory, and programmatic guidelines applicable to those programs.

SEC. 7. Section 51900.1 is added to the Education Code, to read:

51900.1. The department shall gather and make available on its internet website, school-based water safety and prevention education resources and curriculum that are age appropriate to pupils of different grade levels and adaptable for public school use. The department is encouraged to refer to the *existing, freely accessible, age- and grade-appropriate curriculum that has been identified by the* Drowning Prevention Foundation and ~~Stop Drowning Now for existing resources and curriculum.~~ *that can be used in school settings.*

SEC. 8. Section 116036 is added to the Health and Safety Code, to read:

116036. The Legislature finds and declares both of the following:

(a) In California, drowning is the leading cause of death for children 4 years of age and younger, the second leading cause of death for children 5 to 14 years of age, inclusive, and the third leading cause of death for teenagers and youth 15 to 24 years of age, inclusive.

(b) Swim instruction provided by persons who are qualified and certified pursuant to Section 116033 and open to children of all ages is an essential public health service.

~~SEC. 9. Section 515 is added to the Public Resources Code, to read:~~

~~515. (a) The Swimming Lesson Voucher Pilot Program is hereby established and shall be administered by the department. The purpose of the pilot program is to increase water safety by offering vouchers for swimming lessons at no cost to children under 18 years of age whose families have an income of no more than 250 percent of the federal poverty level.~~

~~(b) In administering the program, the department shall do all of the following:~~

~~(1) Develop written agreements with, and establish a network of, swimming lesson vendors that accept swimming lesson vouchers offered by the program in exchange for providing swimming lessons. To the extent feasible, a written agreement shall be established with at least one swimming lesson vendor in each county.~~

~~(2) Verify that swimming lesson vendors have adequate and appropriate training to provide swimming lessons for a voucher recipient.~~

~~(3) Establish the application method and eligibility criteria for swimming lesson vouchers, including, but not limited to, all of the following:~~

~~(A) The voucher recipient shall be a California resident under 18 years of age.~~

~~(B) The voucher recipient's family income shall not exceed 250 percent of the federal poverty level, which may be shown by proof of receiving state benefits.~~

~~(C) Proof of the voucher recipient's residency in this state shall be required.~~

~~(4) Issue swimming lesson vouchers for eligible children.~~

~~(5) Adopt rules and regulations necessary to administer the program.~~

~~(6) (A) In consultation with the Drowning Prevention Foundation, develop a free and publicly accessible online statewide directory of swim lesson programs, listed by county, including public and private programs that do not discriminate based on ethnicity, gender, economic status, or any other protected category.~~

~~(B) The directory shall include all of the following information about each program listed:~~

~~(i) The name of the program and the name of the parent organization, if applicable.~~

~~(ii) The contact information, including the telephone number, physical address, and internet website, if any.~~

~~(iii) The age groups the program serves.~~

~~(iv) The qualifications of the swim lesson instructors and the life guards.~~

~~(v) Information about signing up for a program.~~

~~(C) The directory may have links to local public and private transportation systems for pupils to use to travel to and from swim lessons, including vouchers, subsidies, or fee waivers provided by a local government.~~

~~(D) The directory shall be made available upon request from a local educational agency to share with parents or guardians and pupils and the directory may be shared by the local educational agency on its internet website.~~

~~(7) Seek various contributors, including, but not limited to, the Drowning Prevention Foundation, other recognized foundations, corporate donors, or individuals that will fund or match funds to cover the cost of the program and the development of the directory described in paragraph (6).~~

~~(c) The department may administer the program through regional public or private partners, or both.~~

~~(d) The implementation of this section is contingent upon an appropriation for these purposes in the annual Budget Act or another statute or if sufficient funds are provided by a foundation, corporation, or other funding benefactor for these purposes.~~

SEC. 9. Section 116064.3 is added to the Health and Safety Code, to read:

116064.3. (a) For purposes of this section, "partnership" means the Swim Lesson Voucher and Swim Lesson Directory Development Plan Partnership established pursuant to subdivision (b).

(b) The Swim Lesson Voucher and Swim Lesson Directory Development Plan Partnership is hereby established. The partnership shall develop guidelines for establishing a swim lesson voucher program and swim lesson directory in California, both of which may include initial pilot programs. The purpose of the swim lesson voucher program, and associated pilot programs, is to increase water safety by offering vouchers for swim lessons at no cost to children under 18 years of age whose families have an income of no more than 250 percent of the federal poverty level. The purpose of the swim lesson directory, and associated pilot programs, is to make it easier for parents, caregivers, and guardians to access swim lessons for their children at all ages.

(c) The partnership shall consist of no more than 10 members and shall be composed of representatives from the following entities:

(1) California's local parks and recreation district leadership with experience in water safety or drowning prevention, as identified by the California Association of Recreation and Park Districts and appointed by the Governor.

(2) State agencies with experience in water safety or drowning prevention, as appointed by the Governor.

(3) Up to four experts in drowning prevention identified by the Drowning Prevention Foundation and appointed by the Governor.

(d) The partnership shall do all of the following:

(1) Develop model written agreements to establish a network of public and private swim lesson programs and swim lesson vendors that accept vouchers in exchange for providing swim lessons. To the extent feasible, the model written agreements shall be established with at least one public or private swim lesson program or swim lesson vendor in each county, and at least one public or private swim lesson program or swim lesson vendor within a five-mile radius of those metropolitan areas with populations of 50,000 or higher.

(2) Verify that public and private swim lesson programs and swim lesson vendors have adequate and appropriately trained instructors to provide swim lessons for a voucher recipient.

(3) Establish a model application method and eligibility criteria for swim lesson vouchers, including, but not limited to, all of the following:

(A) The voucher recipient shall be a California resident under 18 years of age.

(B) The voucher recipient's family income shall not exceed 250 percent of the federal poverty level, which may be shown by proof of receiving income-based federal or state benefits.

(C) Proof of the voucher recipient's residency in this state shall be required.

(4) Issue swim lesson vouchers for eligible children.

(5) Adopt guidelines necessary to administer the swim lesson voucher program.

(6) (A) In consultation with other California or national organizations with experience in developing a swim lesson directory, develop a free and publicly accessible online statewide directory of swim lesson programs, listed by county, including public and private programs that do not discriminate based on ethnicity, gender, economic status, or any other protected category.

(B) The directory shall include all of the following information about each program listed:

(i) The name of the program and the name of the parent organization, if applicable.

(ii) The contact information, including the telephone number, physical address, and internet website, if any.

(iii) The age groups the program serves.

(iv) The qualifications of the swim lesson instructors and the lifeguards.

(v) Information about signing up for a program.

(C) The directory may have, and the Legislature encourages the directory to have, links to local public and private transportation systems for pupils to use to travel to and from swim lessons, including vouchers, subsidies, or fee waivers provided by a local government or transportation agency.

(D) The directory shall be made available upon request from a local educational agency or school to share with parents or guardians and pupils and the directory may be shared by the local educational agency or school on its internet website.

(7) Make recommendations and an action plan to seek various contributors, including, but not limited to, the Drowning Prevention Foundation, other recognized foundations, corporate donors, or individuals that will fund or match funds to cover the cost of the

voucher programs and the development of the directory described in paragraph (6).

(e) The partnership shall provide directions and options for administering the voucher program and swim lesson directory using a combination of state and regional public or private partners.

(f) The implementation of this section is contingent upon an appropriation for these purposes in the annual Budget Act or another statute or upon sufficient funds being provided by a foundation, corporation, or other funding benefactor to the partnership for these purposes.

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MELISSA HURTADO
— CA STATE SENATOR • 16TH DISTRICT —

Senate Bill 345
State Fire Training Accessibility Act

Introduced, February 12, 2025

SUMMARY

In order to combat future California fires, our first responders should have every resource possible to help save lives and safeguard communities. A fully staffed and well trained firefighting force is essential to successfully combating future fires in the state. However, rising training fees can deter individuals from choosing a career in the fire service. SB 345 aims to address these rising training costs by permitting the State Fire Marshal to accept additional funding sources for the California Fire Service Training and Education Program. Permitting the State Fire Marshall to receive additional funding sources for training programs will help to mitigate rising fees for those seeking fire training certification.

PROBLEM

California State Fire Training (SFT) provides curriculum and certification to current fire department, firefighters, and individuals seeking a career in the fire service. This training is provided to over 23,000 paid and volunteer firefighters every year. When SFT was established, it only allowed for user fees to recover the cost of staff, course development and certification. Over the years the fire service has become more professional and certifications are now required for every position in the fire service. To generate enough revenue, fees needed to be raised by over 200% and in some cases 400%. This has resulted in courses and certifications becoming unaffordable to volunteer firefighters and individuals seeking entry level positions.

BACKGROUND

The California Fire Service Training and Education Division under the CAL FIRE – Office of the State Fire Marshal provides an essential need for a diverse California fire service. It is responsible for rules and regulations, course development, certification, and certification testing. This division is vital to the fire service because it provides the course curriculum for over 160 different courses and 26 certification levels, including some nationally accredited certifications.

In the era of climate change, the fire service is regularly responding to mass conflagration wildfires and the need for well-trained fire personnel has never been greater. Central to achieving this goal is making SFT courses both accessible and affordable to all fire personnel, especially the next generation of firefighters. Historically, SFT has been able to provide these services at a minimal cost to its users. However, doing so in an increasingly complex and expanding arena of fire protection has resulted in funding shortfalls, requiring a significant increase in their fees.

Solution

SB 345 allows the State Fire Marshal to accept additional funding sources for the California Fire Service Training and Education Program. The bill would make the same change relative to the California Fire and Arson Training Act. Given the enormous risk of fire and other disasters California faces, we must make SFT an affordable solution for our paid and volunteer firefighters, as well as students wishing to enter the fire service. The financial obstacles fee increases create for students and fire departments demand a legislative solution. California cannot afford to let high training costs stand in the way of public safety.

FOR MORE INFORMATION

Harrison Pardini, Legislative Aide
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SENATE BILL No. 345

Introduced by Senator Hurtado

February 12, 2025

An act to amend Sections 13157 and 13159.8 of the Health and Safety Code, relating to fire safety.

LEGISLATIVE COUNSEL'S DIGEST

SB 345, as introduced, Hurtado. California Fire Service Training and Education Program: California Fire and Arson Training Act: fees.

Existing law establishes the California Fire Service Training and Education Program in the office of the State Fire Marshal. Existing law requires the State Fire Marshal, with policy guidance and advice from the State Board of Fire Services, to carry out the management of the program. Existing law authorizes the State Fire Marshal to, among other things, establish and collect admission fees and other fees that may be necessary to be charged for seminars, conferences, and specialized training given, as provided. Existing law also authorizes the State Fire Marshal to establish and collect fees to implement the California Fire and Arson Training Act, which requires the State Fire Marshal to, among other things, establish and make recommendations related to minimum standards for fire protection personnel and fire personnel instructors, develop course curricula for arson, fire technology, and apprenticeship training, and promote the California Fire Academy System, as provided.

This bill would instead authorize the State Fire Marshal to establish and collect the admission fees and other fees associated with the California Fire Service Training and Education Program, and to establish the fees to implement the California Fire and Arson Training Act, only to the extent that state appropriations and other funding sources are insufficient to cover the necessary costs of the activities eligible to be paid from those fees.

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

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

SECTION 1. Section 13157 of the Health and Safety Code is amended to read:

13157. The California Fire Service Training and Education Program is hereby established in the office of the State Fire Marshal.

The State Fire Marshal, with policy guidance and advice from the State Board of Fire Services, shall carry out the management of the California Fire Service Training and Education Program and shall have the authority ~~to:~~ *to do all of the following:*

(a) Promulgate and adopt rules and regulations necessary for implementation of the program.

(b) Establish the courses of study and curriculum to be used in the program.

(c) Establish prerequisites for the admission of personnel who attend courses offered in the program.

(d) *(1)* Establish and collect admission fees and other fees that may be necessary to be charged for seminars, conferences, and specialized training ~~given, which shall not be deducted from state appropriations for the purposes of this program.~~ *given, consistent with the terms of paragraph (2).*

(2) The State Fire Marshal may establish and collect admission fees and other fees as described in paragraph (1) only to the extent that state appropriations and other funding sources for those seminars, conferences, and specialized training are insufficient to cover the necessary costs of those seminars, conferences, and specialized training.

(e) Collect ~~such~~ *those* fees as may be established pursuant to subdivision ~~(d)~~ *(e)* of Section ~~13142.4.~~ *13159.8.*

SEC. 2. Section 13159.8 of the Health and Safety Code is amended to read:

13159.8. The State Fire Marshal, with policy guidance and advice from the State Board of Fire Services, shall:

(a) Establish and validate recommended minimum standards for fire protection personnel and fire protection instructors at all career levels.

(b) Develop course curricula for arson, fire technology, and apprenticeship training for use in academies, colleges, and other educational institutions.

(c) Develop, validate, update, copyright, and maintain security over a complete series of promotional examinations based on the minimum standards established pursuant to subdivision (a).

(d) Have the authority to make the examinations developed pursuant to subdivision (c) available to any agency of the state, to any political subdivision within the state, or to any other testing organization, as ~~he or she~~ *the State Fire Marshal* deems appropriate.

(e) *(1)* Establish any fees ~~which~~ *that* are necessary to implement this ~~section.~~ *section, consistent with the terms of paragraph (2).* However, the State Fire Marshal shall not establish or collect any fees for training classes provided by the State Fire Marshal to fire protection personnel relating to state laws and regulation ~~which~~ *that* local fire services are authorized or required to enforce.

(2) The State Fire Marshal may establish fees pursuant to paragraph (1) only to the extent that state appropriations and other funding sources for the purposes of implementing this section are insufficient to cover the necessary costs of implementing this section.

(f) Promote, sponsor, and administer the California Fire Academy System.

(g) Establish procedures for seeking, accepting, and administering gifts and grants for use in implementing the intents and purposes of the California Fire and Arson Training Act.

(h) The recommended minimum standards established pursuant to subdivision (a) shall not apply to any agency of the state or any agency of any political subdivision within the state unless that agency elects to be subject to these standards.

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SENATE COMMITTEE ON APPROPRIATIONS
Senator Anna Caballero, Chair
2025 - 2026 Regular Session

SB 345 (Hurtado) - California Fire Service Training and Education Program: California Fire and Arson Training Act: fees

Version: February 12, 2025
Urgency: No
Hearing Date: April 7, 2025
Policy Vote: G.O. 13 - 0
Mandate: No
Consultant: Janelle Miyashiro

Bill Summary: SB 345 limits how the State Fire Marshal (SFM) establishes and collects admission fees for seminars, conferences, and specialized trainings associated with the California Fire Services Training and Education Program and the California Fire and Arson Training Act, as specified.

Fiscal Impact: Unknown fiscal impact to the SFM (California Fire and Arson Training Fund). This bill limits the SFM's ability to collect training fees to the amount that is not covered by state appropriations or other funding sources. The California State Fire Training Division (SFT) within the SFM does not generally receive state budget appropriations, as the program is currently fully funded through user fees.

If state or other funding is allocated to the SFT, then the California Department of Forestry and Fire Protection (CAL FIRE) anticipates decreased costs for trainings and certifications to some extent. This may result in an increase in overall course participation and subsequent increased administrative workload for SFT. Since the amount of interest generated by reduced course costs to applicants cannot be known at this time since no additional funding has been allocated to the program, CAL FIRE assumes this workload increase would be absorbable. However, to the extent that any subsequent workload increase is significant, then there may be additional cost pressures to SFT if appropriated funding and user fees are insufficient to cover its administrative costs.

Background: The Office of the SFM provides support to CAL FIRE through a wide variety of fire safety responsibilities including: regulating buildings in which people live, congregate, or are confined; by controlling substances and products which may, in and of themselves, or by their misuse, cause injuries, death and destruction by fire; by providing statewide direction for fire prevention within wildland areas; by regulating hazardous liquid pipelines; by developing and reviewing regulations and building standards; and by providing training and education in fire protection methods and responsibilities.

In 1978, the California Department of Education transferred responsibility of California Fire Service Training and Education Program to the SFM. The SFT is the division of the SFM that establishes, develops, and delivers standardized training and education for the California fire service. The SFT oversees the California Fire Service Training and Education Program, which consists of two main program elements: the California Fire Service Training and Education System (CFSTES) and the Fire Service Training and Education Program (FSTEP).

When the program transferred to the SFM, the legislative intent for establishing the California Fire and Arson Training Fund was to provide a self-supporting training infrastructure for California's fire service. Due to this, the SFT is a self-funded program that is paid for by participant's fees. The SFT collects fees for services provided, including course diplomas, applying for certification, taking certification exams, and Accredited Local Academy and Accredited Regional Training Programs accreditations.

In September 2019, the SFM updated its training and education fees based on historical system use. A sub-group of the Statewide Training and Education Advisory Committee (STEAC) was formed to set the proposed fees. The proposed fees then went to STEAC and the State Board of Fire Service for approval. After the approval, a rulemaking package went through the Office of Administrative Law process to be codified into the California Code of Regulations. The SFT implemented the fee adjustments in January 2021.

For comparison, the below table outlines original and adjusted fees for several SFT services. This information was taken from the SFT's September 2019 Fee Report and 2019-20 Annual Report. Not all services are listed.

Service	Original Fee	New Fee	Percent Change
Certification Fees			
Chief Fire Officer / Executive Chief Fire Officer	$90	$150	67%
Community Risk Educator	$65	$100	54%
Company Officer	$65	$100	54%
Emergency Vehicle Technician / Fire Mechanic	$65	$100	54%
Instructor	$65	$100	54%
Fire Marshal	$90	$150	67%
Course Delivery Fees			
CFSTES Diploma	$80	$140	75%
FSTEP Diploma	$20	$75	275%
Peer Assessment and Established Equivalency Fees			
PACE 2: Credential Evaluation (Instructors)	$60	$200	233%
PACE 3: Course Equivalencies	$60	$200	233%
Established Equivalencies	$60	$140	133%
Accredited Academy Fees			
Accredited Local Academy (ALA) / Accredited Regional Training Programs (ARTP) Initial Accreditation	$500	$4,000	700%
ALA / ARTP Reaccreditation	$500	$3,000	500%

According to the SFT 2023 Annual Report, the SFT saw a roughly 10 percent increase in courses, diplomas, and overall student hours in Fiscal Year (FY) 2023 compared to FY 2022, while student totals remained nearly the same.

Proposed Law: Specifies the SFM may establish and collect admission fees and other fees necessary for seminars, conferences, and specialized trainings only to the extent that state appropriations and other funding sources are insufficient to cover the necessary cost of administering those seminars, conferences, and specialized trainings under the California Fire Services Training and Education Program and the California Fire and Arson Training Act.

Related Legislation: SB 662 (Alvarado-Gil, 2025) extends, from January 1, 2026, to January 1, 2031, the repeal date on the statutory requirement that CAL FIRE establish a statewide program to allow qualifying entities to support and augment CAL FIRE in its defensible space and home hardening assessment and education efforts, as specified. SB 662 is pending in the Senate Natural Resources & Water Committee.

AB 1457 (Bryan, 2025) requires CAL FIRE to include training consistent with the "Home Ignition Zone/Defensible Space Inspector" course plan, established by the SFM, to ensure that individuals are trained to conduct home ignition zone inspections, as specified. AB 1457 is pending in the Assembly Natural Resources Committee.

Staff Comments: Alternative funding sources for the SFT are unpredictable given changing state budget conditions and the availability of federal grants or other private sources. It is unknown if the SFT would be required to reevaluate and adjust its course fee structure to reflect appropriations to the program as they become available. If so, SFT may incur additional administrative costs to adjust its fees to align with the receipt of alternative funding sources.

-- END --

SB 345: California Fire Service Training and Education Program: California Fire and Arson Training Act: fees.

Date	Result	Location	Ayes	Noes	Abstain/Absent	Motion
4/7/2025	P	SEN. APPR.	7	0	0	Placed on suspense file (PASS)
		AYES: Cabaldon, Christopher Caballero, Anna Dahle, Megan Grayson, Timothy Richardson, Laura Seyarto, Kelly Wahab, Aisha				
		NOES:				
		ABSTAIN/ABSENT:				

MARIE ALVARADO-GIL

4TH SENATE DISTRICT

SB 696 (Alvarado-Gil): El Dorado County Fire Protection District

SUMMARY

SB 696 would allow fire departments, volunteer fire departments, and fire districts to claim a tax exemption on the sale, storage, use, and consumption of firefighting apparatus, equipment, and specialized vehicles purchased for use. The tax exemption would be imposed on or after January 1, 2026 and sunset in 2031.

BACKGROUND

As wildfires continue to burn across the state, firefighters in rural areas are in crucial need of financial support. Necessary firefighting equipment including fire trucks, protective gear, and extinguishing tools are costly. California currently offers tax exemptions to certain government entities and non-profits for organizational use. This bill would allow firefighters the opportunity to claim a tax exemption on purchases made in the interest of public service.

PROBLEM

Fire departments, volunteer fire departments, and fire districts are not currently offered tax exemptions for purchasing firefighting materials. The increase of wildfires in California significantly impacts the amount of fires that rural firefighters must respond to, and therefore the materials and resources that they must utilize in order to protect California homes and families.

SOLUTION

Providing a tax exemption for fire departments, volunteer fire departments, and fire districts would reduce their financial burden, allowing funds to be utilized efficiently, and allowing firefighters in rural areas to continue to serve and protect. For example, the El Dorado County Fire Protection District has spent approximately $6.7 million on vital expense items (including safety gear, fire and safety supplies, vehicle maintenance and fuel, building improvements and supplies, etc.) in the fiscal years 2023 through 2025. $6.7 million in taxable items would have returned approximately $458,451 in sales tax relief that the department would have invested back into fire prevention and suppression.

SUPPORT

El Dorado County Fire Protection District (Sponsor)

STAFF CONTACT

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SENATE BILL No. 696

Introduced by Senator Alvarado-Gil

February 21, 2025

An act to add and repeal Section 6356.8 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 696, as introduced, Alvarado-Gil. Sales and Use Tax Law: exemptions: firefighting equipment.

Existing state sales and use tax laws impose a tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state or on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state. The Sales and Use Tax Law provides various exemptions from those taxes.

This bill, on and after January 1, 2026, and before January 1, 2031, would exempt from those taxes the gross receipts from the sale in this state of, and the storage, use, or other consumption in this state of, firefighting apparatus, equipment, or specialized vehicles purchased for use by a fire department, including an all-volunteer fire department, or a fire district.

Existing law requires any bill authorizing a new tax expenditure to contain, among other things, specific goals that the tax expenditure will achieve, detailed performance indicators, and data collection requirements.

This bill also would include additional information required for any bill authorizing a new tax expenditure.

The Bradley-Burns Uniform Local Sales and Use Tax Law authorizes counties and cities to impose local sales and use taxes in conformity with the Sales and Use Tax Law, and existing laws authorize districts,

as specified, to impose transactions and use taxes in accordance with the Transactions and Use Tax Law, which generally conforms to the Sales and Use Tax Law. Amendments to the Sales and Use Tax Law are automatically incorporated into the local tax laws.

Existing law requires the state to reimburse counties and cities for revenue losses caused by the enactment of sales and use tax exemptions.

This bill would provide that, notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse any local agencies for sales and use tax revenues lost by them pursuant to this bill.

This bill would take effect immediately as a tax levy.

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

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

SECTION 1. Section 6356.8 is added to the Revenue and Taxation Code, to read:

6356.8. (a) On and after January 1, 2026, and before January 1, 2031, there are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use, or other consumption in this state of, firefighting apparatus, equipment, or specialized vehicles purchased for use by a fire department, including an all-volunteer fire department, or a fire district.

(b) (1) For the purposes of complying with Section 41, the Legislature finds and declares both of the following:

(A) The specific goal that the exemption will achieve is to reduce the financial burden placed on local fire departments, thereby allowing for more efficient use of resources by those departments.

(B) Detailed performance indicators for the Legislature to use to measure whether the exemption meets the goal described in subparagraph (A) are the following:

(i) The number of taxpayers exempting purchases from tax pursuant to this section.

(ii) The total dollar value of sales exempted from tax pursuant to this section.

(2) On or before April 1, 2027, and annually thereafter, the California Department of Tax and Fee Administration shall analyze the performance indicators in subparagraph (B) of paragraph (1)

and shall submit a report of its findings to the Legislature in compliance with Section 9795 of the Government Code.

(c) This section shall remain operative only until January 1, 2031, and as of that date is repealed.

SEC. 2. Notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any sales and use tax revenues lost by it under this act.

SEC. 3. This act provides for a tax levy within the meaning of Article IV of the California Constitution and shall go into immediate effect.

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SB 90 Local Fire Prevention Grant

Summary

SB 90 will utilize Prop 4 (The Safe Drinking Water, Wildfire Prevention, Drought Preparedness, and Clean Air Bond Act of 2024) funding to support prepositioned mobile rigid water storage and mobile rigid dip tanks, in order to support firefighting air assets.

Background

Wildfires have become increasingly severe and frequent in California, posing a significant threat to lives, property, and the environment. Helicopters are crucial in fighting fires, but their effectiveness is limited by the time needed to travel to distant water sources for refills. A lack of nearby water sources forces helicopters to burn more fuel searching for water, reducing their time helping at the scene. Strategically placed water tanks enable faster helicopter refills, increasing water drops and firefighting efficiency.

In areas without natural water sources such as lakes or rivers, helicopters rely on systems like heli-hydrants. While effective, these systems have significant challenges, including high costs and infrastructure requirements. For example, heli-hydrants in Los Angeles County have experienced budget overruns and delays due to their permanent setup and the complex infrastructure needs to support them. On average, heli-hydrants cost approximately $300,000 per unit, making them a costly solution for wildfire suppression.

Mobile water tanks provide a proven and cost-effective alternative. These tanks range in price from $65,000 to $95,000, are significantly more affordable than heli-hydrants, and can be rapidly deployed near fire zones. Their temporary and mobile nature exempts them from California Environmental Quality Act (CEQA) requirements, ensuring swift deployment without regulatory delays. These mobile water tanks create a comprehensive safety network when strategically positioned alongside improved public evacuation routes in high-fire hazard zones. The tanks support firefighting helicopters within a 2.5-mile radius (16,000 acres), and fire engines that can quickly access water while maintaining clear evacuation paths. This proven equipment has been successfully utilized in areas such as Paradise, Napa, and Malibu to prevent wildfires from devastating communities.

Proposal

SB 90 will allow the use of Prop 4 funding to support prepositioned mobile rigid water storage and mobile rigid dip tanks as eligible activities for improving public safety. By strategically positioning these tanks in high-risk wildfire areas, California firefighters can reduce helicopter response times and enhance the effectiveness of fire engines and helicopters while making critical improvements to public evacuation routes on specified lands.

Click here to read the bill language

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Proud to represent the cities and communities of Aguanga, Anza, Borrego Springs, Canyon Lake, Chino Hills, Corona, El Sobrante, French Valley, Homeland, Idyllwild, Julian, La Cresta, Lake Elsinore, Lake Mathews, Lakeland Village, Menifee, Murrieta, Norco, Sage, Temecula, Temescal Valley, Warner Springs, Wildomar, Winchester, Woodcrest, Yorba Linda, and parts of Riverside.

AMENDED IN SENATE MARCH 12, 2025

AMENDED IN SENATE FEBRUARY 26, 2025

SENATE BILL No. 90

Introduced by Senator Seyarto
(Coauthors: Senators Alvarado-Gil, Choi, Grove, Jones, Ochoa Bogh, and Valladares)
(Coauthors: Assembly Members Alanis, Gallagher, Jeff Gonzalez, and Tangipa)

January 22, 2025

An act to amend Section 91510 of the Public Resources Code, relating to wildfire prevention.

LEGISLATIVE COUNSEL'S DIGEST

SB 90, as amended, Seyarto. Safe Drinking Water, Wildfire Prevention, Drought Preparedness, and Clean Air Bond Act of 2024: grants: improvements to public evacuation routes: mobile rigid water storage: electrical generators.

The Safe Drinking Water, Wildfire Prevention, Drought Preparedness, and Clean Air Bond Act of 2024, approved by the voters as Proposition 4 at the November 5, 2024, statewide general election, authorized the issuance of bonds in the amount of $10,000,000,000 pursuant to the State General Obligation Bond Law to finance projects for safe drinking water, drought, flood, and water resilience, wildfire and forest resilience, coastal resilience, extreme heat mitigation, biodiversity and nature-based climate solutions, climate-smart, sustainable, and resilient farms, ranches, and working lands, park creation and outdoor access, and clean air programs. The act makes $135,000,000 available, upon appropriation by the Legislature, to the Office of Emergency Services for a wildfire mitigation grant program to provide, among other things, loans, direct

assistance, and matching funds for projects that prevent wildfires, increase resilience, maintain existing wildfire risk reduction projects, reduce the risk of wildfires to communities, or increase home or community hardening. The act provides that eligible projects include, but are not limited to, grants to local agencies, state agencies, joint powers authorities, tribes, resource conservation districts, fire safe councils, and nonprofit organizations for structure hardening of critical community infrastructure, wildfire smoke mitigation, evacuation centers, including community clean air centers, structure hardening projects that reduce the risk of wildfire for entire neighborhoods and communities, water delivery system improvements for fire suppression purposes for communities in very high or high fire hazard areas, wildfire buffers, and incentives to remove structures that significantly increase hazard risk.

This bill would include in the list of eligible projects grants to the above-mentioned entities for improvements to public evacuation routes in very high and high fire hazard severity zones, mobile rigid dip tanks, as defined, to support firefighting efforts, prepositioned mobile rigid water storage, as defined, and improvements to the response and effectiveness of fire engines and helicopters. The bill would also include grants, in coordination with the Public Utilities Commission, to local agencies, state agencies, special districts, joint powers authorities, tribes, and nonprofit organizations for backup electrical generators for water reservoirs.

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

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

SECTION 1. Section 91510 of the Public Resources Code is amended to read:

91510. (a) Of the funds made available by Section 91500, one hundred thirty-five million dollars ($135,000,000) shall be available, upon appropriation by the Legislature, to the Office of Emergency Services for a wildfire mitigation grant program. The Office of Emergency Services shall coordinate with the Department of Forestry and Fire Protection in administering these moneys. The grant program shall assist local and state agencies to leverage additional funds, including matching grants from federal agencies. Funds may be used to provide loans, rebates, direct assistance, and

matching funds for projects that prevent wildfires, increase resilience, maintain existing wildfire risk reduction projects, reduce the risk of wildfires to communities, or increase home or community hardening. Projects shall benefit disadvantaged communities, severely disadvantaged communities, or vulnerable populations. Eligible projects include, but are not limited to, any of the following:

(1) Grants to local agencies, state agencies, joint powers authorities, nonprofit organizations, resource conservation districts, and tribes for projects that reduce wildfire risks to people and property consistent with an approved community wildfire protection plan.

(2) Grants to local agencies, state agencies, joint powers authorities, tribes, resource conservation districts, fire safe councils, and nonprofit organizations for structure hardening of critical community infrastructure, wildfire smoke mitigation, evacuation centers, including community clean air centers, improvements to public evacuation routes in very high or high fire hazard severity zones, structure hardening projects that reduce the risk of wildfire for entire neighborhoods and communities, water delivery system improvements for fire suppression purposes for communities in very high or high fire hazard areas, mobile rigid dip tanks to support firefighting efforts, prepositioned mobile rigid water storage, improvements to the response and effectiveness of fire engines and helicopters, wildfire buffers, and incentives to remove structures that significantly increase hazard risk.

(A) For purposes of this paragraph, "mobile rigid dip tank" is a mobile rigid dip tank for storing water, retardant, or other firefighting material for the on-ground equipment or aerial refilling of firefighting ~~helicopters that is constructed of steel and is designed to be resistant to vandalism when left unattended.~~ *helicopters.*

(B) For purposes of this paragraph, "mobile rigid water storage" is a mobile rigid water tank for storing water for refilling of ground equipment or helicopter dip tanks, or ~~both, that is constructed of steel and is designed to be resistant to vandalism when left unattended and have an extended service life.~~ *both.*

(3) Grants, in coordination with the Public Utilities Commission, to local agencies, state agencies, special districts, joint powers authorities, tribes, and nonprofit organizations for zero-emission

backup power, energy storage, and microgrids for critical community infrastructure in order to provide continuity of electrical service, reduced wildfire ignitions, and to safeguard communities from disruption due to deenergization events, wildfire, or air pollution caused by wildfire, extreme heat, or other disaster.

(4) Grants, in coordination with the Public Utilities Commission, to local agencies, state agencies, special districts, joint powers authorities, tribes, and nonprofit organizations for backup electrical generators for water reservoirs.

(5) Grants under the Home Hardening Program to retrofit, harden, or create defensible space for homes at high risk of wildfire in order to protect California communities.

(b) The Office of Emergency Services and the Department of Forestry and Fire Protection shall prioritize wildfire mitigation grant funding applications from local agencies based on the Fire Risk Reduction Community list, pursuant to Section 4290.1.

(c) The Office of Emergency Services and the Department of Forestry and Fire Protection shall provide technical assistance to disadvantaged communities, severely disadvantaged communities, or vulnerable populations, including those with access and functional needs, socially disadvantaged farmers or ranchers, and economically distressed areas to ensure the grant program reduces the vulnerability of those most in need.

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SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION
Senator Steve Padilla
Chair
2025 - 2026 Regular

Bill No:	SB 90	**Hearing Date:**	3/11/2025
Author:	Seyarto, et al.		
Version:	2/26/2025 Amended		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Brian Duke		

SUBJECT: Safe Drinking Water, Wildfire Prevention, Drought Preparedness, and Clean Air Bond Act of 2024: grants: improvements to public evacuation routes: mobile rigid water storage: electrical generators

DIGEST: This bill adds new eligible projects under the $10 billion Safe Drinking Water, Wildfire Prevention, Drought Preparedness, and Clean Air Bond Act (Bond Act), allowing grants for public evacuation route improvements, mobile rigid dip tanks and prepositioned mobile rigid water storage, enhancements to fire engine and helicopter response capabilities, and backup electrical generators, as specified.

ANALYSIS:

Existing law:

1) The Safe Drinking Water, Wildfire Prevention, Drought Preparedness, and Clean Air Bond Act of 2024 authorizes the issuance of bonds in the amount of $10 billion pursuant to the State General Obligation Bond Law to finance projects for safe drinking water, drought, flood, and water resilience, wildfire and forest resilience, coastal resilience, extreme heat mitigation, biodiversity and nature-based climate solutions, climate-smart, sustainable, and resilient farms, ranches, and working lands, park creation and outdoor access, and clean air programs.

2) The Bond Act makes $135 million available, upon appropriation by the Legislature, to the Office of Emergency Services (OES) for a wildfire mitigation grant program to provide, among other things, loans, direct assistance, and matching funds for projects that prevent wildfires, increase resilience, maintain existing wildfire risk reduction projects, reduce the risk of wildfires to communities, or increase home or community hardening.

3) The Bond Act provides that eligible projects include, but are not limited to, grants to local agencies, state agencies, joint power authorities (JPAs), tribes, resource conservation districts, fire safe councils, and nonprofit organizations for structure hardening of critical community infrastructure, wildfire smoke mitigation, evacuation centers, including community clean air centers, structure hardening projects that reduce the risk of wildfire for entire neighborhoods and communities, water delivery system improvements for fire suppression purposes for communities in very high or high fire hazard areas, wildfire buffers, and incentives to remove structures that significantly increase hazard risk.

This bill:

1) Adds to the list of eligible project grants available for use as part of the $135 million described above to include improvements to public evacuation routes in very high or high fire hazard severity zones, mobile rigid dip tanks to support firefighting efforts, prepositioned mobile rigid water storage, and improvements to the response and effectiveness of fire engines and helicopters.

2) Defines "mobile rigid dip tank" to mean a mobile rigid dip tank for storing water, retardant, or other firefighting material for the on-ground equipment or aerial refilling of firefighting helicopters that is constructed of steel and is designed to be resistant to vandalism when left unattended.

3) Defines "mobile rigid water storage" to mean a mobile rigid water tank for storing water for refilling of ground equipment or helicopter dip tanks, or both, that is constructed of steel and is designed to be resistant to vandalism when left unattended and have an extended service life.

4) Authorizes grants, in coordination with the California Public Utilities Commission (CPUC), to local agencies, state agencies, special districts, JPAs, tribes, and nonprofit organizations for backup electrical generators for water reservoirs.

Background

Author Statement. According to the author's office, "SB 90 offers an innovative approach to water accessibility through mobile tanks that will dramatically improve our firefighting capabilities. In my experience as a fire chief with decades of experience fighting California wildfires, reducing helicopter refill times by even a few minutes can mean the difference between containing a fire and watching it spread out of control. The cost-effective nature of these mobile tanks, combined

with their strategic positioning capabilities, makes this solution both practical and essential for protecting our communities from increasingly devastating wildfires."

California's Worsening Wildfire Reality. The State of California has the main responsibility for wildfire response activities on about one-third of California's land area. With over 39 million residents, the State of California is the most populous state in the nation and has the third largest land area among the states (163,695 square miles). OES serves as the state's leadership hub during all major emergencies and disasters. This includes responding, directing, and coordinating state and federal resources and mutual aid assets across all regions to support the diverse communities across the state.

The Department of Forestry and Fire Protection (Cal FIRE) works to safeguard California through fire prevention and protection, emergency response, and stewardship of natural resource systems. Cal FIRE works to contain large wildfires, preventing them from spreading, damaging communities, and endangering residents. The state also runs programs to reduce the chances that wildfires will start and to limit the damage they cause when they do occur—also known as wildfire prevention and mitigation.

In 2021, the Department of Water Resources (DWR) released the Small Water Systems and Rural Communities Drought and Water Shortage Contingency Planning and Risk Assessment report. Issued in two parts, the report both identifies the vulnerability of small water systems and rural communities to drought and water shortages (Part II) and offers recommendations for enhancing drought contingency planning in these areas (Part I).

In this report, DWR evaluated the drought and water shortage risks for 2,419 small water suppliers. The findings revealed that 47 out of the state's 58 counties have small water suppliers ranking in the top 10% for water shortage risk (a total of 240 suppliers). Notably, 61% of these high-risk suppliers (149 in total) are located in zones with high or very high fire hazard severity. This indicates that numerous small and rural communities across the state face a significant risk of water depletion during droughts or other disasters, and that communities in high wildfire-risk areas are particularly vulnerable—potentially compromising their ability to manage fires effectively.

The report highlights that water systems serving fewer than 1,000 connections often struggle to maintain water supplies during natural disasters, regardless of their planning efforts, due to their limited economies of scale and the high costs of emergency response measures. Among the recommended resiliency improvements

is ensuring that water sources and distribution systems have adequate capacity to meet the increased flow demands required during wildfires.

An UCLA Luskin Center for Innovation briefing paper from December 2021, titled *Wildfire & Water Supply in California*, states that the "linkages between wildfire and water are numerous, and many of them are relatively well researched, such as the effects of wildfire on riparian areas. However, in recent years, a newer issue has emerged: the relationship between wildfire and water supply. Some aspects of this topic are well understood, such as how higher elevation wildfires might impact water storage reservoirs through siltation. Other aspects are less understood, such as how wildfires lead to drinking water contamination."

Safe Drinking Water, Wildfire Prevention, Drought Preparedness, and Clean Air Bond Act of 2024. The Bond Act was placed on the 2024 general election ballot as Proposition 4 by SB 867 (Allen, Chapter 83, Statutes of 2024), and was approved by voters with 59.8% of the 15 million votes cast. The Bond Act authorizes the issuance of $10 billion worth of bonds pursuant to the State General Obligation Bond Law to finance projects for safe drinking water, drought, flood, and water resilience, wildfire and forest resilience, coastal resilience, extreme heat mitigation, biodiversity and nature-based climate solutions, climate-smart, sustainable, and resilient farms, ranches, and working lands, park creation and outdoor access, and clean air programs. Of that $10 billion, the Bond Act makes $135 million available, upon appropriation by the Legislature, to OES for a wildfire mitigation grant program to provide, among other things: loans, direct assistance, and matching funds for projects that: prevent wildfires, increase resilience, maintain existing wildfire risk reduction projects, reduce the risk of wildfires to communities, or increase home or community hardening.

Further, the Bond Act provides that eligible projects for funding pursuant to the $135 million allocated to OES include, but are not limited to, grants to local agencies, state agencies, JPAs, tribes, resource conservation districts, fire safe councils, and nonprofit organizations for structure hardening of critical community infrastructure, wildfire smoke mitigation, evacuation centers (including community clean air centers), structure hardening projects that reduce risk of wildfire for entire neighborhoods and communities, water delivery system improvements for fire suppression purposes for communities in very high or high fire hazard areas, wildfire buffers, and incentives to remove structures that significantly increase hazard risk.

This bill adds to the list of eligible projects grants to the above-mentioned entities for improvements to public evacuation routes in very high and high fire hazard severity zones, mobile rigid dip tanks to support firefighting efforts, prepositioned

mobile rigid water storage, and improvements to the response and effectiveness of fire engines and helicopters.

Additionally, this bill authorizes OES, in coordination with the PUC, to offer grants to local agencies, state agencies, special districts, JPAs, tribes, and nonprofit organizations for backup electrical generators for water reservoirs.

Mobile Rigid Dip Tanks and Mobile Rigid Water Storage. This bill defines "mobile rigid dip tank" to mean a mobile rigid dip tank for storing water, retardant, or other firefighting material for the on-ground equipment or aerial refilling of firefighting helicopters that is constructed of steel and is designed to be resistant to vandalism when left unattended. Additionally, this bill defines "mobile rigid water storage" to mean a mobile rigid water tank for storing water for refilling of ground equipment or helicopter dip tanks, or both, that is constructed of steel and is designed to be resilient to vandalism when left unattended and have an extended service life.

Firefighting helicopters use dip tanks when other water sources are not an option. Dip tanks cut the distances that helicopters must travel to the nearest body of water, help when the local water source is not deep enough, or alleviate the environmental concerns with using local water. Dip tanks come in many sizes and shapes, and are mobile so they can be positioned for optimum access and effect during a fire incident. According to the United States Forest Service Technology & Development Program's *Helicopter Dip Tank Capabilities and User's Guide*, "[r]igid tanks are made with heavy aluminum or steel and do not collapse. These tanks are rectangular with wheels attached to the bottom and only can be moved by a large truck or tractor. These tanks resemble an open top trailer. Due to their size, they are usually positioned next to roads or parking lots. Collapsible tanks can be placed in more remote locations."

Further, portable water tanks are becoming crucial in firefighting efforts, especially in remote areas where access to a continuous water supply can be challenging. Portable fire water tanks are designed to be easily transported and quickly deployed, ensuring that firefighters have the water they need when they need it most.

California's Aerial Firefighting Program. Cal FIRE's world-renowned aviation program responds to thousands of wildland fires throughout California each year. Cal FIRE's current aviation fleet includes Grumman S-2T Airtankers, Bell UH-1H Super Huey Helicopters, Sikorsky S-70i Helicopters, North American OV-10A (&1 D Model) Bronco Air Tactical Aircraft, and C-130 Hercules Airtankers. According to Cal FIRE's internet website, these "aircraft, highly skilled pilots, and

aviation support staff are strategically located throughout California at our 14 air tanker bases, 10 Cal FIRE helitack bases and one Cal FIRE/San Diego County Sheriff helitack base. Aircraft can reach the most remote State Responsibility Area (SRA) fires in approximately 20 minutes, with the goal of keeping 95% of fires at 10 acres or less. Cal FIRE's fleet of more than 60 fixed and rotary wing aircraft make it the largest civil aerial firefighting fleet in the world."

The 2025 Southern California Fire Storms. Wildfire's tore through the Los Angeles area in January, 2025, displacing tens of thousands of people and claiming the lives of at least 29 individuals. The Palisades fire and Eaton fire now rank among the deadliest and most destructive fires in California history. These fires ignited amid an extreme weather event, fueled by unusually severe fire weather conditions including Santa Ana winds of nearly 100 miles per hour across the State's southern region, and following an extended period of drought in the area. These fires were, at least in part, a product of what UCLA and University of California Agriculture and Natural Resources scientist Daniel Swain calls a sort of "hydroclimate whiplash."

According to the report *Whiplash: How Big Swings in Precipitation Fueled the L.A. Fires* published at the Yale School of the Environment, "[i]n 2023 and 2024, the city experienced unusually wet winters, which spurred the growth of grasses and shrubs. Then the rain stopped. Since July, the city has received a mere three-hundredths of an inch of precipitation. The result has been acre after acre of desiccated brush – the perfect kindling for wildfires."

As the fires raged on, firefighters were forced to rely on local water infrastructure not designed for fires of that size. According to *CapRadio's* report "[c]onspiracies are rife about water and the LA fires. Here's what experts say," a "reservoir in the Palisades was empty while its cover was getting repaired. And the water systems used to fight the Palisades and Eaton fires couldn't maintain the continuous high water pressures needed, meaning water stopped flowing in some hydrants. Newsom has called for an investigation."

The article notes that, "water and climate experts say that even if the Palisades reservoir had been full and hydrants working perfectly, they wouldn't have allowed firefighters to change the course of large wildfires. Hurricane-force winds fueled the fires, and meant that in the first days planes and helicopters couldn't fly and drop water, experts say. These municipal water systems were structured for residential and commercial needs and everyday fires – not firefighting on many fronts without aerial support, says Josh Lappen, a climate researcher at University of Notre Dame who studies Los Angeles' infrastructure systems."

Fire Hazard Severity Zones. Existing law requires Cal FIRE to map fire hazard within State Responsibility Areas (SRA) based on fuel loading, slope, fire weather, and other relevant factors present, including areas where winds have been identified by the department as a major cause of wildfire spread. These zones, referred to as Fire Hazard Severity Zones (FHSZ), classify a wildland zone as Moderate, High, or Very High fire hazard based on the average hazard across the area included in the zone.

FHSZ maps are developed using a science-based and field-tested model that assigns a hazard score based on the factors that influence fire likelihood and fire behavior. FHSZ maps evaluate "hazard," not "risk." They are like flood zone maps, where lands are described in terms of the probability level of a particular area being inundated by floodwaters, and not specifically prescriptive of impacts. "Hazard" is based on the physical conditions that create a likelihood and expected fire behavior over a 30 to 50-year period without considering mitigation measures such as home hardening, recent wildfire, or fuel reduction efforts.

In February, Cal FIRE began rolling out updated fire zones, doubling the number of acres in local jurisdictions required to follow stricter fire safety building codes. Previously, the state mapped and applied fire safety regulations only to local areas with the highest possible fire hazards, deemed "very high." According to a recent *Los Angeles Times* article titled "Cal FIRE's updated fire-hazard maps will double the area of locally managed land that must comply with safety codes," the new FHSZ maps are "expected to expand the roughly 800,000 acres currently in local fire jurisdictions zoned as 'very high' by an additional 247,000 acres. Some 1.16 million acres will be categorized into the new 'high' zones, according to a press release from the governor's office."

This bill adds "improvements to public evacuation routes in very high or high fire hazard severity zones" to the list of eligible projects to receive grants for local agencies, state agencies, JPAs, tribes, resource conservation districts, fire safe councils, and nonprofit organizations under the Bond Act.

Policy Consideration. As discussed previously, the United Sates Forest Service Technology & Development Program's *Helicopter Dip Tank Capabilities and User's Guide* identifies multiple types of dip tanks that helicopters use when other water sources are not an option. In addition to steel, rigid dip tanks may be made with heavy aluminum. Further, framed tanks can use a steel or aluminum frame in combination with an internal layer of synthetic material to contain the water. This design works best for tanks holding a large volume of water and can be available in round or rectangular forms and are collapsible. Frameless tanks are self-

supporting and made of soft, synthetic materials. They collapse for easy transport and storage.

This bill also requires that the dip tanks be "designed to be resistant to vandalism" and that the mobile rigid water storage be "designed to be resistant to vandalism when left unattended and have an extended service life." These particular requirements may prove difficult to determine and may unnecessarily limit the ability of OES to quickly and efficiently disperse grant funds for needed equipment and projects.

The author has agreed to the following amendments:

Amendment #1: (A) For purposes of this paragraph, "mobile rigid dip tank" is a mobile rigid dip tank for storing water, retardant, or other firefighting material for the on-ground equipment or aerial refilling of firefighting ~~helicopters that is constructed of steel and is designed to be resistant to vandalism when left unattended.~~ *helicopters*.

Amendment #2: (B) For purposes of this paragraph, "mobile rigid water storage" is a mobile rigid water tank for storing water for refilling of ground equipment or helicopter dip tanks, or ~~both, that is constructed of steel and is designed to be resistant to vandalism when left unattended and have an extended service life.~~ *both.*

Prior/Related Legislation

SB 556 (Hurtado, 2025) appropriates, from specific funds in the Bond Act, $43 million to the Wildlife Conservation Board to support projects in the Counties of Kern, Kings, and Tulare for the restoration and conservation of habitats along floodplains, as specified. (Pending referral in the Senate)

AB 307 (Petrie-Norris, 2025) requires, of the $25 million available to Cal FIRE for technologies that improve detection and assessment of new fire ignitions, that $10 million be allocated for purposes of the ALERTCalifornia fire camera mapping system, as specified. (Pending in the Assembly Natural Resources Committee)

AB 372 (Bennet, 2025) establishes, contingent on funding being appropriate pursuant to a bond act, the Rural Water Infrastructure for Wildfire Resilience Program within OES for the distribution of state matching funds to communities within the Wildland Urban Interface in designated high fire hazard severity zones or very high fire hazard severity zones to improve water system infrastructure, as specified. (Pending referral in the Assembly)

SB 867 (Allen, Chapter 83, Statutes of 2024) enacts the Safe Drinking Water, Wildfire Prevention, Drought Preparedness, and Clean Air Bond Act of 2024, which authorizes a $10 billion bond to be placed before the state's voters for approval during the 2024 general election, as specified.

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

SUPPORT:

City of Sierra Madre (Co-source)
Crescenta Valley Water District (Co-source)
PumpPodUSA

OPPOSITION:

None received

ARGUMENTS IN SUPPORT: In support of the bill, the City of Sierra Madre writes that, "[r]eliable emergency power is essential to fire suppression efforts. During the Eaton Fire, the City of Sierra Madre suffered a power outage at our city yard water facilities, causing a halt in water pumping from local reservoirs. Unfortunately, our existing emergency backup generator failed, requiring the immediate rental of an emergency generator to restore water access. This water was critical for refilling reservoirs used in firefighting efforts. Without functional backup power, our ability to provide water for fire suppression, public safety, and emergency response is severely compromised."

Further, "SB 90 directly addresses this need by providing grant funding for backup electrical generators – ensuring that local agencies, like Sierra Madre, can maintain uninterrupted access to water during emergencies. This funding is especially crucial for small municipalities that depend on reliable electric power to pump and distribute water effectively. Ensuring that cities like Sierra Madre have reliable backup power for water infrastructure will significantly enhance our resilience and ability to protect lives and property."

DUAL REFERRAL: Senate Committee on Governmental Organization and Senate Committee on Natural Resources & Water

SB 90: Safe Drinking Water, Wildfire Prevention, Drought Preparedness, and Clean Air Bond Act of 2024: grants: improvements to public evacuation routes: mobile rigid water storage: electrical generators.

Date	Result	Location	Ayes	Noes	Abstain/Absent	Motion
3/11/2025	P	SEN. G.O.	13	0	2	Do pass as amended, but first amend, and re-refer to the Committee on [Natural Resources and Water] (PASS)

AYES: Archuleta, Bob Ashby, Angelique Blakespear, Catherine Cervantes, Sabrina Dahle, Megan Hurtado, Melissa Ochoa Bogh, Rosilicie Padilla, Stephen Richardson, Laura Rubio, Susan Smallwood-Cuevas, Lola Wahab, Aisha Weber Pierson, M.D., Akilah
NOES:
ABSTAIN/ABSENT: Jones, Brian Valladares, Suzette Martinez

PUBLIC POLICY ADVOCATES LLC

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Fax 916.441.3549

April 03, 2025

The Honorable Kelly Seyarto
California State Senate, District32
1021 O Street, Room 7120
Sacramento, CA 95814

Re: **Senate Bill 90 (Seyarto), As Amended 03/12/2025**
Position: **SUPPORT**

Dear Senator Seyarto:

On behalf of the California Fire Chiefs Association (CalChiefs) and the Fire Districts Association of California (FDAC), I write to express their support for Senate Bill 90 (Seyarto), which expands access to grant funding for fire departments, local governments, and other stakeholders working to enhance wildfire resilience in high-risk areas.

SB 90 represents a strategic investment in community-wide hardening and wildfire response capabilities, particularly in vulnerable zones where water access is limited. By supporting the deployment of mobile dip tanks and water caches in remote or high-risk areas, this measure will significantly improve the efficiency of aerial firefighting operations and support ground crews during critical initial attack phases. These tools are essential to slowing fire spread, protecting evacuation routes, and supporting both public safety and firefighter effectiveness.

We appreciate your thoughtful approach to this important issue and look forward to seeing the bill continue to move through the legislative process.

Sincerely,
Public Policy Advocates, LLC

Julee Malinowski-Ball

JMB/kmg

AB 569

Supplemental Pension Plans

ASSEMBLYMEMBER DISTRICT 19

Catherine Stefani

SUMMARY

AB 569 would provide greater retirement security, improved recruitment, and retention of local public employees by allowing them to participate in a supplemental pension plan.

BACKGROUND

More and more workers are concerned about their ability to have economic stability in retirement. Inflation, housing costs, and stagnant wage growth are major contributors to this concern, along with the high cost of living in many regions of California.

Public employees with defined benefit plans are also concerned about retirement security. This is largely due to changes to pension rules that were enacted over a decade ago, most notably through the Public Employees' Pension Reform Act (PERPRA). Public employees hired since those changes spend more out of pocket for lower pension benefits in retirement. While many of the changes were necessary to curb abuses in public retirement systems, some reforms had little relation to the targeted abuses and unfortunately, eliminated tools used to attract highly qualified job seekers.

Retirement security concerns have contributed to the recruitment and retention problems of public employees providing vital services to Californians. Local governments throughout the state have significant vacancies for important positions across all wage and occupational categories. Chronic staffing shortages have affected the ability to provide quality services to the public and have negatively impacted staff morale.

This bill would provide local governments with more options to improve retirement benefits, increase retirement security, and recruit and retain a quality workforce.

THIS BILL

AB 569 would permit a local public employer and a union representing one or more of its bargaining units to negotiate and agree to contributions to a supplemental pension plan administered by or on behalf of the union representing the bargaining unit. This option would be completely permissive and would not change any of the other rules established by PEPRA.

SUPPORT

California Teamsters Public Affairs Council (Sponsor)

STAFF CONTACT

Office of Asm. Catherine Stefani
Melissa Sagun
(916) 319-2019, ext. 2659

ASSEMBLY BILL No. 569

Introduced by Assembly Member Stefani

February 12, 2025

An act to amend Section 7522.18 of the Government Code, relating to retirement benefits.

LEGISLATIVE COUNSEL'S DIGEST

AB 569, as introduced, Stefani. California Public Employees' Pension Reform Act of 2013: exceptions: supplemental defined benefit plans.

Existing law, the California Public Employees' Pension Reform Act of 2013 (PEPRA), on and after January 1, 2013, requires a public retirement system, as defined, to modify its plan or plans to comply with PEPRA, as specified. Among other things, PEPRA prohibits a public employer from offering a defined benefit pension plan exceeding specified retirement formulas, requires new members of public retirement systems to contribute at least a specified amount of the normal cost, as defined, for their defined benefit plans, and prohibits an enhancement of a public employee's retirement formula or benefit adopted after January 1, 2013, from applying to service performed prior to the operative date of the enhancement.

PEPRA prohibits a public employer from offering a supplemental defined benefit plan if the public employer did not do so before January 1, 2013, or, if it did, from offering that plan to an additional employee group after that date.

This bill would, notwithstanding that prohibition, authorize a public employer, as defined, to bargain over contributions for supplemental retirement benefits administered by, or on behalf of, an exclusive

bargaining representative of one or more of the public employer's bargaining units.

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

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

SECTION 1. Section 7522.18 of the Government Code is amended to read:

7522.18. (a) A public employer that does not offer a supplemental defined benefit plan before January 1, 2013, shall not offer a supplemental defined benefit plan for any employee on or after January 1, 2013.

(b) A public employer that provides a supplemental defined benefit plan, including a defined benefit plan offered by a private provider, before January 1, 2013, shall not offer a supplemental defined benefit plan to any additional employee group to which the plan was not provided before January 1, 2013.

(c) Except as provided in Chapter 38 (commencing with Section 25000) of Article 1 of Part 13 of Title 1 of the Education Code, a public employer shall not offer or provide a supplemental defined benefit plan, including a defined benefit plan offered by a private provider, to any employee hired on or after January 1, 2013.

(d) Notwithstanding subdivisions (a) and (b), a public employer, as defined in paragraph (2) of subdivision (i) of Section 7522.04, may bargain over contributions for supplemental retirement benefits administered by, or on behalf of, an exclusive bargaining representative of one or more of the public employer's bargaining units.

O

Date of Hearing: April 23, 2025

ASSEMBLY COMMITTEE ON PUBLIC EMPLOYMENT AND RETIREMENT
Tina S. McKinnor, Chair
AB 569 (Stefani) – As Introduced February 12, 2025

SUBJECT: California Public Employees' Pension Reform Act of 2013: exceptions: supplemental defined benefit plans

SUMMARY: Amends the California Public Employees' Pension Reform Act (PEPRA) of 2013 relating to supplemental defined benefit (DB) plan exceptions by authorizing a public employer to bargain over contributions for supplemental retirement benefits administered by, or on behalf of, an exclusive bargaining representative of one or more of the public employer's bargaining units.

EXISTING LAW:

1) Establishes the PEPRA – a comprehensive reform of public employee retirement that, among other things, increased contribution rates towards retirement, decreased retirement benefit formulas, and increased the age of retirement that apply to new members of the system first hired on or after January 1, 2013, and made changes that apply to all members towards resolving unfunded liabilities, manipulation of compensation for purposes of calculating a retirement allowance (e.g., pensions spiking and double-dipping), and includes other prescribed best practice measures as a matter of prudent public policy. (Sections 7522.02 *et seq*., Government (Gov.) Code.)

2) Prohibits, pursuant to the PEPRA:

   a) A public employer that does not offer a supplemental DB plan before January 1, 2013, from offering such a plan for any employee on or after that date. (Section 7522.18 (a), Gov. Code.)

   b) A public employer that offers a supplemental DB plan, including one offered by a private employer, before January 1, 2013, from offering such a plan to any additional employee group to which the plan was not provided before that date. (Section 7522.18 (b), Gov. Code.)

   c) A public employer from offering or providing a supplemental DB plan, including a DB plan offered by a private employer, to any employee hired on or after January 1, 2013. (Section 7522.18 (c), Gov. Code.)

   d) Establishes that the PEPRA does not apply to a multiemployer plan authorized by the federal Taft-Hartley Act, as specified, if the public employer began participating in that plan prior to January 1, 2013, and the plan is regulated by the federal Employee

Retirement Income Security Act (ERISA) of 1974, as provided. (Section 7522.02 (a) (4), Gov. Code.)

FISCAL EFFECT: None. This bill is keyed nonfiscal by Legislative Counsel.

COMMENTS:

1) **What is a Supplemental DB Plan?**

Generally, such plans are a set of retirement benefits that are designed to provide retirement income, typically, but not exclusively, to highly paid employees to address a shortfall caused by limits and restrictions in qualified retirement plans.

As noted by the active term "supplemental" in the name of such retirement plans, where an employee, for example, may receive retirement benefits from a defined benefit retirement plan (e.g., California public employee pension system) and in which their retirement benefit may be subject to certain limits and restrictions, *a "supplemental" DB plan provides additional retirement income* based on an employee's age, years of service, and combination of contributions to that retirement plan at the time they retire towards added financial security in retirement. *(Emphasis.)*

2) **Why Does the PEPRA Include Prohibitions and Limitations Regarding Supplemental DB Plans?**

Among other things, the PEPRA established certain prohibitions and limitations regarding the creation of new supplemental DB plans, as stated under "Existing Law." The purposes of those prohibitions and limitations are to address related suspect activities that intentionally inflated an employee's compensation used to calculate their retirement while the long-term future cost of the retirement benefits had not fully been paid resulting in increased unfunded or underfunded liability, i.e., costs. Prior to legislative action, such activities were amplified by the media as "double-dipping" and "pension-spiking," among other negative characterization.

Although there is substantially more detailed history as to the public policy reasons necessitating the PEPRA dating to the year 2000 that need not be discussed relating to this bill, to address negative legislative experience regarding public employee retirement, the Legislature enacted the PEPRA as a means to address such concerns among others; restore public confidence in public employee retirement; and, reduce costs, among other reasons, through a prudent- and best-practice public policy.

In large part, the PEPRA requires public employees to contribute more towards their retirement, work more years of service towards retirement, and be of higher age at retirement (while receiving less than their pre-PEPRA public employee-colleagues in retirement). Though this may be viewed by some as unfair or other negative adjective, the history of questionable public

employee retirement activities pre-PEPRA resulted in the PEPRA, which is intended to achieve its multiple public policy objectives.

3) **This Bill**

It is noted that this bill is narrow in its scope by specifically addressing the negotiability of contributions to a supplemental DB plan, and does not affect other PEPRA guardrails.

However, because the proposed amendment is prefaced by "notwithstanding…," which could be construed to mean "regardless of…," or "despite…," the prohibitions and limitations of this PEPRA section, the negotiation of contributions to such a plan potentially could circumvent the limitations and prohibitions of the affected PEPRA provision in a manner contrary to the original intents and purposes of, and by, legislative enactment of the PEPRA public policy.

To the extent that the proposed amendment to this PEPRA provision could be construed to have that meaning and effect, the committee proposes amendments to address concerns.

4) **Proposed Committee Amendments**

To guard against making the same or similar costly public policy mistakes and potentially encouraging a return of the suspect activities of years past, the committee proposes the following amendment that would maintain the proposed authorization to negotiate contributions to supplemental DB plans, but also maintain consistency with the existing PEPRA prohibitions and limitations.

As such, the committee's proposed amendment specifically to subdivision (d) of this bill would read as follows (RN2514041):

> "7522.18 (d) ~~Notwithstanding subdivisions (a) and (b), a public employer,~~ ***A public employer,*** as defined in paragraph (2) of subdivision (i) of Section 7522.04, may bargain over contributions for supplemental retirement benefits administered by, or on behalf of, an exclusive bargaining representative of one or more of the public employer's bargaining ***units, subject to the limitations set forth in this section.***"

5) **Notwithstanding the Committee's Proposed Amendment, Questions Exist as to the Need for this Bill**

The explicit PEPRA provisions proposed to be affected by this bill simultaneously are limiting and prohibitive. Meaning, if a public employer did not offer such a plan before the effectuation of the PEPRA, i.e., January 1, 2013, they are prohibited from doing so after the PEPRA's effectuation. (Section 7522.18 (a), *ibid*.) Further, if a public employer provides such a plan (including a DB plan offered by a private provider) prior to that date, it is prohibited from offering that plan to any additional employee group. (Section 7522.18 (b), *ibid.*) As to the two provisions, the latter provision "grandfathered in" supplemental DB plans and their participants that existed prior to effectuation of the PEPRA, and includes a prohibitive condition on

additional "employee groups." This goes to follow that a public employer that offers or provides such a plan prior to that date, is permitted to continue to do so, subject to an express prohibition.

Further, the PEPRA also explicitly establishes that its provisions do not apply to a multiemployer plan authorized by the federal Taft-Hartley Act, as specified, if the public employer began participating in that plan prior to January 1, 2013, and the plan is regulated by the federal Employee Retirement Income Security Act (ERISA) of 1974, as provided. (Section 7522.02 (a) (4), Gov. Code.).

It is noted that while this bill is intended to apply to negotiating contributions relating to a supplemental DB plan, including a Taft-Hartley plan, typically, Taft-Hartley plans are union-sponsored (administered by them or on their behalf) and not established by a public employer. It is further noted that each of the aforementioned PEPRA provisions are intended to, and indeed do, operate in concert with the other, including relating to a Taft-Hartley plan.

Where the aforementioned PEPRA provisions establish exacting specificity regarding prohibitions and limitation as to "providing," "offering," and "any new employee group" as to such plans, and in concert with the effective date of the PEPRA, these PEPRA provisions as to a public employer and employee organization "negotiating contributions" to such plans are silent. Where the PEPRA is silent as to negotiating contributions to such a plan, a plain reading of the aforementioned provisions, *in toto,* reasonably are construed that the negotiation of contributions between a public employer and employee organization to such a plan is permissible, subject to the express prohibitions and limitations that are in concert with the effective date of the PEPRA.

Statutory clarity may be the intent regarding this bill, and notwithstanding the committee's proposed amendment, given a plain reading of the aforementioned statutes and their construction, questions exist as to the need for this bill.

6) **Statement by the Author**

"[Increasingly,] workers are concerned about their ability to have economic stability in retirement. Inflation, housing costs, and stagnant wage growth are major contributors to this concern, along with the high cost of living in many regions of California. Retirement security concerns have contributed to the recruitment and retention problems of public employees providing vital services to Californians.

"Local governments throughout the state have significant vacancies for important positions across all wage and occupational categories. Chronic staffing shortages have affected the ability to provide quality services to the public and have negatively impacted staff morale. [This bill] would provide local governments with more options to improve retirement benefits, increase retirement security, and recruit and retain a quality workforce by allowing employees to participate in a supplemental pension plan."

7) **Comments by Supporters**

The California Teamsters Public Affairs Council states that, "[this bill] would permit a local public employer and a union representing one or more of its bargaining units to negotiate and agree to contributions to a supplemental pension plan administered by or on behalf of the union representing the bargaining unit. This option would be completely permissive and would not change any of the other rules established by PEPRA.

"Even public employees with defined benefit plans are concerned about retirement security. This is largely due to changes to pension rules that were enacted over a decade ago, most notably the [PEPRA]. Public employees hired since those changes spend more out of pocket for lower pension benefits in retirement. While many of the changes were necessary to curb abuses in public retirement systems, some changes may have had little relation to the targeted abuses and, unfortunately, eliminated tools to attract highly qualified job seekers. […retirement] security concerns have contributed to the recruitment and retention of public employees providing vital services to Californians. Local governments throughout the state have significant vacancies for positions across all wage and occupational categories. Chronic staffing shortages have affected the ability to provide quality services to the public and have driven down staff morale."

8) **Comments by Opponents**

None.

9) **Prior or Related Legislation**

Chapter 296, Statutes of 2012 (Assembly Bill 340, Furutani) established the PEPRA.

REGISTERED SUPPORT / OPPOSITION:

Support

California Teamsters Public Affairs Council *(Sponsor)*
California Federation of Labor Unions, AFL-CIO

Opposition

None on file.

Analysis Prepared by: Michael Bolden / P. E. & R. / (916) 319-3957

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AB 1383 (McKinnor) Public employees' retirement benefits
FACT SHEET

Sponsor: Meagan Subers, California Professional Firefighters, msubers@cpf.org
Staff Contact: Terry Schanz, terry.schanz@asm.ca.gov
As Amended: April 11, 2025

ISSUE

The promise of a safe and secure retirement has been one of the guiding lights of public service for generations. While their colleagues may earn higher salaries in the private sector, public servants rely on the guarantee of an earned and liveable retirement.

A recent report by the National Institute on Retirement Security found that pension benefits drive significant economic activity in California, both through the direct support of jobs and their wages as well as the spending power granted to retirees by their secure retirement. This activity included $28.4 billion in wages and salaries, $86.9 billion in economic output, and $16.6 billion in federal, state, and local tax revenues. This results in the "pension benefit multiplier" that means each dollar paid out in pension benefits results in $1.27 in economic output, and the "taxpayer investment factor" that means each dollar contributed by taxpayers results in $4.30 in economic output.

Pensions are a good investment, both for the health and security of retirees as well as for the economy of the state. Healthy pension funds are critical components in keeping the public sector competitive in its ability to attract top talent and fuel our state's economic engine.

The compensation cap established under PEPRA is creating impacts on the likelihood of people promoting within the fire service. When the Legislature established Government Code Section 7522.10, they included subdivision (d), paragraph (2) includes clear indication that the Legislature may revisit the cap in the future.

Currently some firefighters are reporting hitting the compensation cap early in the 4th quarter and there are concerns that time will come earlier and earlier in the year in the coming years. Revisiting the compensation cap will address recruitment, retention and promotion issues. Firefighting is one of the most dangerous and demanding jobs imaginable. Addressing the compensation cap will ensure that firefighters are willing to take on more complicated fire services jobs that may require more risk or other oversight responsibilities.

SOLUTION

AB 1383 would make targeted adjustments to State law regarding the retirement system. Specifically, AB 1383 increases the compensation cap under Government Code Section 7522.10 to align with the current Internal Revenue Service Code. This consistency will help address issues of recruitment, promotion and retention in public employment.

SUPPORT

California Professional Firefighters (Sponsor)
California Association of Psychiatric Technicians
SEIU California

AMENDED IN ASSEMBLY APRIL 11, 2025

AMENDED IN ASSEMBLY MARCH 10, 2025

CALIFORNIA LEGISLATURE—2025–26 REGULAR SESSION

ASSEMBLY BILL No. 1383

Introduced by Assembly Member McKinnor

February 21, 2025

An act to amend ~~Section 7522.10 of~~ *Sections 7522.10, 7522.25, and 7522.30 of, and to add Sections 7522.19 and 7522.26 to,* the Government Code, relating to public employees' retirement, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1383, as amended, McKinnor. Public employees' retirement benefits.

The Public Employees' Retirement Law (PERL) establishes the Public Employees' Retirement System (PERS) to provide a defined benefit to members of the system based on final compensation, credited service, and age at retirement, subject to certain variations. Existing law creates the Public Employees' Retirement Fund, which is continuously appropriated for purposes of PERS, including depositing employer and employee contributions. Under the California Constitution, assets of a public pension or retirement system are trust funds.

The California Public Employees' Pension Reform Act of 2013 (PEPRA) establishes a variety of requirements and restrictions on public employers offering defined benefit pension plans. In this regard, PEPRA restricts the amount of compensation that may be applied for purposes of calculating a defined pension benefit for a new member, as defined, by restricting it to specified percentages of the contribution and benefit

base under a specified federal law with respect to old age, survivors, and disability insurance benefits.

This bill, on and after January 1, 2026, would require a retirement system to adjust pensionable compensation limits to be consistent with a defined benefit limitation established and annually adjusted under federal law with respect to tax exempt qualified trusts. ~~By~~

PEPRA requires each retirement system that offers a defined benefit plan for safety members of the system to use one of 3 formulas for safety members, 2% at age 57, 2.5% at age 57, or 2.7% at age 57.

This bill would establish new retirement formulas, for employees first hired on or after January 1, 2026, as 2.5% at age 55, 2.7% at age 55, or 3% at age 55. For new members hired on or after January 1, 2013, who are safety members, the bill would require employers to adjust the formulas for service performed on or after January 1, 2026, to offer one of the 3 formulas for safety members that is closest to the formula the employer provided pursuant to existing law. The bill would authorize a public employer and a recognized employee organization to negotiate a prospective increase to the retirement benefit formulas for members and new members, consistent with the formulas permitted under the act.

This bill would authorize an employer and its employees to agree in a memorandum of understanding to be subject to a higher safety plan or a lower safety plan, subject to certain requirements, including that the memorandum of understanding is collectively bargained in accordance with applicable laws.

PEPRA requires all public employees to pay at least 50 percent of normal costs and prohibits public employers from paying any of the required employee contribution.

This bill would authorize an employer and employee, through the collective bargaining process, to agree to terms in a memorandum of understanding where the employer pays a portion of employee contribution.

By increasing the contribution to continuously appropriated funds, this bill would make an appropriation.

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

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

SECTION 1. The Legislature finds and declares the following:

(a) California is experiencing significant challenges in the recruitment and retention of safety personnel, including firefighters, police officers, and other first responders. Competitive retirement benefits are critical to ensuring an adequate and well-trained public safety workforce.

(b) Firefighters face heightened risks of occupational diseases, including elevated cancer rates. Studies have shown that firefighters have a significantly higher risk of developing multiple types of cancer due to prolonged exposure to carcinogens and hazardous materials in the line of duty. In 2022, the International Agency for Research on Cancer identified the occupation of firefighting as a Class 1 carcinogen.

(c) The physical demands of safety positions are extraordinary, requiring peak physical performance, endurance, and exposure to high-stress, life-threatening situations on a daily basis. These factors contribute to increased rates of disability, injury, and early retirement compared to other professions.

(d) Adjusting the retirement age and pension formulas for safety employees is necessary to maintain a sustainable and effective workforce while addressing the unique health and occupational challenges faced by these personnel.

(e) California has a strong history of protecting and promoting collective bargaining rights and providing opportunities for employees and employers to bargain over certain retirement benefits that further enhances opportunities for public employers and employees to partner on stronger retirement security.

(f) Public employees commit their life to service of their communities. Allowing employees to bargain over the payment of the normal cost between employees and employers will facilitate further discussion at the bargaining table, improving conditions for all employees.

(g) The compensation cap established under the public employee pension reform act, places limits that are significantly less than the current federal limit. To reflect current wage rates across both safety and miscellaneous employees, it is necessary to reconsider the appropriate compensation cap level, consistent with federal limits.

~~SECTION 1.~~

SEC. 2. Section 7522.10 of the Government Code is amended to read:

7522.10. (a) On and after January 1, 2013, each public retirement system shall modify its plan or plans to comply with the requirements of this section for each public employer that participates in the system.

(b) Whenever pensionable compensation, as defined in Section 7522.34, is used in the calculation of a benefit, the pensionable compensation shall be subject to the limitations set forth in subdivision (c).

(c) (1) The pensionable compensation used to calculate the defined benefit paid to a new member who retires from the system shall not exceed the following applicable percentage of the contribution and benefit base specified in Section 430(b) of Title 42 of the United States Code on January 1, 2013:

(A) One hundred percent for a member whose service is included in the federal system.

(B) One hundred twenty percent for a member whose service is not included in the federal system.

(2) On and after January 1, 2026, a retirement system subject to this article shall adjust pensionable compensation limits established by this subdivision to be consistent with the defined benefit rate established by Section 415(b)(1)(A) of Title 26 of the United States Code, as adjusted annually.

(d) (1) The retirement system shall adjust the pensionable compensation described in subdivision (c) based on the annual changes to the Consumer Price Index for All Urban Consumers: U.S. City Average, calculated by dividing the Consumer Price Index for All Urban Consumers: U.S. City Average, for the month of September in the calendar year preceding the adjustment by the Consumer Price Index for All Urban Consumers: U.S. City Average, for the month of September of the previous year rounded to the nearest thousandth. The adjustment shall be effective annually on January 1, beginning in 2014.

(2) The Legislature reserves the right to modify the requirements of this subdivision with regard to all public employees subject to this section, except that the Legislature may not modify these provisions in a manner that would result in a decrease in benefits accrued prior to the effective date of the modification.

(e) A public employer shall not offer a defined benefit or any combination of defined benefits, including a defined benefit offered

by a private provider, on compensation in excess of the limitation in subdivision (c).

(f) (1) Subject to the limitation in subdivision (c) of Section 7522.42, a public employer may provide a contribution to a defined contribution plan for compensation in excess of the limitation in subdivision (c) provided the plan and the contribution meet the requirements and limits of federal law.

(2) A public employee who receives an employer contribution to a defined contribution plan shall not have a vested right to continue receiving the employer contribution.

(g) Any employer contributions to any employee defined contribution plan above the pensionable compensation limits in subdivision (c) shall not exceed the employer's contribution rate, as a percentage of pay, required to fund the defined benefit plan for income subject to the limitation in subdivision (c) of Section 7522.42.

(h) The retirement system shall limit the pensionable compensation used to calculate the contributions required of an employer or a new member to the amount of compensation that would be used for calculating a defined benefit as set forth in subdivision (c) or (d).

SEC. 3. Section 7522.19 is added to the Government Code, to read:

7522.19. (a) Notwithstanding any other law, a public employer and a recognized employee organization may negotiate a prospective increase to the retirement benefit formulas for members and new members, consistent with the formulas permitted under this article.

(b) Benefit formula increases adopted pursuant to this section shall be established in accordance with Section 7522.44 of this article.

(c) For safety members, prospective benefit enhancement may be considered using the formulas included in Section 7522.26.

SEC. 4. Section 7522.25 of the Government Code is amended to read:

7522.25. (a) Each retirement system that offers a defined benefit plan for safety members of the system shall use one or more of the defined benefit formulas prescribed by this section. A member may retire for service under any of the formulas in this

section after five years of service and upon reaching 50 years of age.

(b) The Basic Safety Plan shall provide a pension at retirement for service equal to the percentage of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding quarter year, in the following table, multiplied by the number of years of service in the system as a safety member.

Age at Retirement	Fraction
50	1.426
50 1/4	1.447
50 1/2	1.467
50 3/4	1.488
51	1.508
51 1/4	1.529
51 1/2	1.549
51 3/4	1.570
52	1.590
52 1/4	1.611
52 1/2	1.631
52 3/4	1.652
53	1.672
53 1/4	1.693
53 1/2	1.713
53 3/4	1.734
54	1.754
54 1/4	1.775
54 1/2	1.795
54 3/4	1.816
55	1.836
55 1/4	1.857
55 1/2	1.877
55 3/4	1.898
56	1.918
56 1/4	1.939
56 1/2	1.959
56 3/4	1.980
57 and over	2.000

(c) The Safety Option Plan One shall provide a pension at retirement for service equal to the percentage of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding quarter year, in the following table, multiplied by the number of years of service in the system as a safety member.

Age at Retirement	Fraction
50	2.000
50 1/4	2.018
50 1/2	2.036
50 3/4	2.054
51	2.071
51 1/4	2.089
51 1/2	2.107
51 3/4	2.125
52	2.143
52 1/4	2.161
52 1/2	2.179
52 3/4	2.196
53	2.214
53 1/4	2.232
53 1/2	2.250
53 3/4	2.268
54	2.286
54 1/4	2.304
54 1/2	2.321
54 3/4	2.339
55	2.357
55 1/4	2.375
55 1/2	2.393
55 3/4	2.411
56	2.429
56 1/4	2.446
56 1/2	2.464
56 3/4	2.482
57 and over	2.500

(d) The Safety Option Plan Two shall provide a pension at retirement for service equal to the percentage of the member's

final compensation set forth opposite the member's age at retirement, taken to the preceding quarter year, in the following table, multiplied by the number of years of service in the system as a safety member.

Age at Retirement	Fraction
50	2.000
50 1/4	2.025
50 1/2	2.050
50 3/4	2.075
51	2.100
51 1/4	2.125
51 1/2	2.150
51 3/4	2.175
52	2.200
52 1/4	2.225
52 1/2	2.250
52 3/4	2.275
53	2.300
53 1/4	2.325
53 1/2	2.350
53 3/4	2.375
54	2.400
54 1/4	2.425
54 1/2	2.450
54 3/4	2.475
55	2.500
55 1/4	2.525
55 1/2	2.550
55 3/4	2.575
56	2.600
56 1/4	2.625
56 1/2	2.650
56 3/4	2.675
57 and over	2.700

(e) On and after January 1, 2013, an employer shall offer one or more of the safety formulas prescribed by this section to new members who are safety employees. The formula offered shall be the formula that is closest to, and provides a lower benefit at 55

years of age than, the formula provided to members in the same retirement classification offered by the employer on December 31, 2012.

(f) On and after January 1, 2013, an employer and its employees subject to Safety Option Plan One or Safety Option Plan Two may agree in a memorandum of understanding to be subject to Safety Option Plan One or the Basic Safety Plan, subject to the following:

(1) The lower plan shall apply to members first employed on or after the effective date of the lower plan, and shall be agreed to in a memorandum of understanding that has been collectively bargained in accordance with applicable laws.

(2) A retirement plan contract amendment with a public retirement system to alter a retirement formula pursuant to this subdivision shall not be implemented by the employer in the absence of a memorandum of understanding that has been collectively bargained in accordance with applicable laws.

(3) An employer shall not use impasse procedures to impose the lower plan.

(4) An employer shall not provide a different defined benefit for nonrepresented, managerial, or supervisory employees than the employer provides for other public employees, including represented employees, of the same employer who are in the same membership classifications.

(g) Pensionable compensation used to calculate the defined benefit shall be limited as described in Section 7522.10.

(h) This section shall only apply to service performed between January 1, 2013, and December 31, 2025.

SEC. 5. Section 7522.26 is added to the Government Code, to read:

7522.26. (a) On and after January 1, 2026, each retirement system that offers a defined benefit plan for safety members of the system shall use one or more of the defined benefit formulas prescribed by this section. A member may retire for service under any of the formulas in this section after five years of service and upon reaching 50 years of age.

(b) The Basic Safety Plan shall provide a pension at retirement for service equal to the percentage of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding quarter year, in the following table,

multiplied by the number of years of service in the system as a safety member.

Age at Retirement	*Fraction*
50	*1.426*
50 1/4	*1.450*
50 1/2	*1.474*
50 3/4	*1.498*
51	*1.522*
51 1/4	*1.550*
51 1/2	*1.576*
51 3/4	*1.602*
52	*1.628*
52 1/4	*1.656*
52 1/2	*1.686*
52 3/4	*1.714*
53	*1.742*
53 1/4	*1.772*
53 1/2	*1.804*
53 3/4	*1.834*
54	*1.866*
54 1/4	*1.900*
54 1/2	*1.932*
54 3/4	*1.966*
55 and over	*2.000*

(c) The Safety Option Plan One shall provide a pension at retirement for service equal to the percentage of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding quarter year, in the following table, multiplied by the number of years of service in the system as a safety member.

Age at Retirement	*Fraction*
50	*2.000*
50 1/4	*2.025*
50 1/2	*2.050*
50 3/4	*2.075*

Age at Retirement	*Fraction*
51	*2.100*
51 1/4	*2.125*
51 1/2	*2.150*
51 3/4	*2.175*
52	*2.200*
52 1/4	*2.225*
52 1/2	*2.250*
52 3/4	*2.275*
53	*2.300*
53 1/4	*2.325*
53 1/2	*2.350*
53 3/4	*2.375*
54	*2.400*
54 1/4	*2.425*
54 1/2	*2.450*
54 3/4	*2.475*
55 and over	*2.500*

(d) The Safety Option Plan Two shall provide a pension at retirement for service equal to the percentage of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding quarter year, in the following table, multiplied by the number of years of service in the system as a safety member.

Age at Retirement	*Fraction*
50	*2.000*
50 1/4	*2.035*
50 1/2	*2.070*
50 3/4	*2.105*
51	*2.140*
51 1/4	*2.175*
51 1/2	*2.210*
51 3/4	*2.245*
52	*2.280*
52 1/4	*2.315*
52 1/2	*2.350*

Age at Retirement	*Fraction*
52 3/4	*2.385*
53	*2.420*
53 1/4	*2.455*
53 1/2	*2.490*
53 3/4	*2.525*
54	*2.560*
54 1/4	*2.595*
54 1/2	*2.630*
54 3/4	*2.665*
55 and over	*2.700*

(e) The Safety Option Plan Three shall provide a pension at retirement for service equal to the percentage of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding quarter year, in the following table, multiplied by the number of years of service in the system as a safety member. For service subject to this subdivision the benefit limit shall be 90 percent of final compensation.

Age at Retirement	*Fraction*
50	*2.400*
50 1/4	*2.430*
50 1/2	*2.460*
50 3/4	*2.490*
51	*2.520*
51 1/4	*2.550*
51 1/2	*2.580*
51 3/4	*2.610*
52	*2.640*
52 1/4	*2.670*
52 1/2	*2.700*
52 3/4	*2.730*
53	*2.760*
53 1/4	*2.790*
53 1/2	*2.820*
53 3/4	*2.850*
54	*2.880*

Age at Retirement	*Fraction*
54 1/4	*2.910*
54 1/2	*2.940*
54 3/4	*2.970*
55 and over	*3.000*

(f) For new members hired on or after January 1, 2026, who are safety members, an employer shall offer one or more of the safety formulas prescribed by this section to new members who are safety employees. The formula offered shall maintain the percentage of compensation factor offered as of December 31, 2025.

(g) For new members hired on or after January 1, 2013, who are safety members, the employer shall adjust their formula as follows:

(1) For service performed between January 1, 2013, and December 31, 2025, the retirement age and formula shall be as offered by the employer between January 1, 2013, and December 31, 2025, and subject to Section 7522.25.

(2) For service performed on or after January 1, 2026, the employer shall offer the formula in this section that is closest to the formula the employer provided pursuant to Section 7522.25.

(3) This section shall not be construed to provide retroactive benefits to employees. This section shall adjust the prospective benefit for safety employees by adjusting the retirement age to 55.

(h) An employer and its employees may agree in a memorandum of understanding to be subject to a higher safety plan, subject to the following:

(1) The higher plan shall apply to members or after the effective date of the higher plan, and shall be agreed to in a memorandum of understanding that has been collectively bargained in accordance with applicable laws.

(2) The higher plan adopted pursuant to this subdivision shall be subject to Section 7522.44.

(i) An employer and its employees may agree in a memorandum of understanding to be subject to a lower safety plan, subject to the following:

(1) The lower plan shall apply to members first employed on or after the effective date of the lower plan, and shall be agreed to

in a memorandum of understanding that has been collectively bargained in accordance with applicable laws.

(2) A retirement plan contract amendment with a public retirement system to alter a retirement formula pursuant to this subdivision shall not be implemented by the employer in the absence of a memorandum of understanding that has been collectively bargained in accordance with applicable laws.

(3) An employer shall not use impasse procedures to impose the lower plan.

(4) An employer shall not provide a different defined benefit for nonrepresented, managerial, or supervisory employees than the employer provides for other public employees, including represented employees, of the same employer who are in the same membership classifications.

(j) Pensionable compensation used to calculate the defined benefit shall be limited as described in Section 7522.10.

(k) A safety member that is subject to a defined benefit formula prescribed by this section, who is not a new member, shall be subject to contribution rates established pursuant to Section 7522.30.

SEC. 6. Section 7522.30 of the Government Code is amended to read:

7522.30. (a) This section shall apply to all public employers and to all new members. ~~Equal~~

(1) Except as otherwise provided in paragraph (2), equal sharing of normal costs between public employers and public employees shall be the standard. The standard shall be that employees pay at least 50 percent of normal costs and that employers not pay any of the required employee contribution.

(2) On or after January 1, 2026, an employer and employees may, through the collective bargaining process, agree to terms in a memorandum of understanding where the employer pays a portion of employee contribution.

(b) The "normal cost rate" shall mean the annual actuarially determined normal cost for the plan of retirement benefits provided to the new member and shall be established based on the actuarial assumptions used to determine the liabilities and costs as part of the annual actuarial valuation. The plan of retirement benefits shall include any elements that would impact the actuarial determination of the normal cost, including, but not limited to, the retirement

formula, eligibility and vesting criteria, ancillary benefit provisions, and any automatic cost-of-living adjustments as determined by the public retirement system.

(c) New members employed by those public employers defined in paragraphs (2) and (3) of subdivision (i) of Section 7522.04, the Legislature, the California State University, and the judicial branch who participate in a defined benefit plan shall have an initial contribution rate of at least 50 percent of the normal cost rate for that defined benefit plan, rounded to the nearest quarter of 1 percent, unless a greater contribution rate has been agreed to pursuant to the requirements in subdivision (e). This contribution shall not be paid by the employer on the employee's behalf.

(d) Notwithstanding subdivision (c), once established, the employee contribution rate described in subdivision (c) shall not be adjusted on account of a change to the normal cost rate unless the normal cost rate increases or decreases by more than 1 percent of payroll above or below the normal cost rate in effect at the time the employee contribution rate is first established or, if later, the normal cost rate in effect at the time of the last adjustment to the employee contribution rate under this section.

(e) Notwithstanding subdivision (c), employee contributions may be more than one-half of the normal cost rate if the increase has been agreed to through the collective bargaining process, subject to the following conditions:

(1) The employer shall not contribute at a greater rate to the plan for nonrepresented, managerial, or supervisory employees than the employer contributes for other public employees, including represented employees, of the same employer who are in related retirement membership classifications.

(2) The employer shall not increase an employee contribution rate in the absence of a memorandum of understanding that has been collectively bargained in accordance with applicable laws.

(3) The employer shall not use impasse procedures to increase an employee contribution rate above the rate required by this section.

(f) If the terms of a contract, including a memorandum of understanding, between a public employer and its public employees, that is in effect on January 1, 2013, would be impaired by any provision of this section, that provision shall not apply to the public employer and public employees subject to that contract

until the expiration of that contract. A renewal, amendment, or any other extension of that contract shall be subject to the requirements of this section.

SEC. 7. It is the intent of the Legislature that this act shall not be construed to affect any retirement benefits or pension rights accrued before its effective date.

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Date of Hearing: April 23, 2025

ASSEMBLY COMMITTEE ON PUBLIC EMPLOYMENT AND RETIREMENT
Tina S. McKinnor, Chair
AB 1383 (McKinnor) – As Amended April 11, 2025

SUBJECT: Public employees' retirement benefits

SUMMARY: Makes changes to the Public Employees' Pension Reform Act (PEPRA) of 2013 relating to: (1) limitations on pensionable compensation used to calculate a DB retirement, (2) various Defined Benefit (DB) retirement formulas, and (3) sharing of normal contribution costs, among other provisions. Specifically, **this bill:**

1) Relating to Limitations on Pensionable Compensation Used to Calculate a Defined Benefit Retirement

Requires, on and after January 1, 2026, retirement systems subject to the PEPRA to adjust the pensionable compensation limits to be consistent with the DB rate established by federal law, as specified and prescribed.

2) Relating to Various DB Retirement Formulas

   a) Authorizes a public employer and a recognized employee organization to negotiate a prospective increase to the retirement formulas *for existing and new members*, consistent with the PEPRA.

      In addition, prospective benefit enhancement may be considered for safety members, as discussed in "c)," below, and further explicitly provides that the formulas adopted resulting from the aforementioned collective bargaining negotiations must be consistent with the PEPRA's prohibition against retroactive retirement benefit enhancement, and that the retirement formulas provided by this bill must not be construed to provide retroactive benefits to employees.

   b) Establishes that the existing PEPRA Safety Basic Plan, Safety Option Plan One, and Safety Option Plan Two retirement benefit formula provisions, i.e., 2 percent at age 57; 2.5 percent at age 57; and, 2.7 percent at age 57, respectively, only apply to service performed between January 1, 2013 (the date the PEPRA became effective), and December 31, 2025.

   c) Adds, by authorizing prospective benefit enhancement using various specified formulas providing that, on and after January 1, 2026, each retirement system that offers a DB plan *for safety members* must offer one or more of the following formulas below, while continuing to be able retire for service under any of them after achieving the minimum 5 years of service at age 50, as under existing law:

      i) Basic Safety Plan: 2 percent at age 55;

ii) Safety Option Plan One: 2.5 percent at age 55;
iii) Safety Option Plan Two: 2.7 percent at age 55; and,
iv) Safety Option Plan Three: 3 percent at age 55

For new safety members hired on or after the immediately-aforementioned date, an employer must offer one or more of these formulas; prescribes the calculation of the compensation offered as of December 31, 2025; and, explicitly limits these formulas to service performed on or after January 1, 2026 (service performed between January 1, 2013, and December 31, 2025, would remain subject to the existing formulas discussed in "b)," above).

While providing for the new formulas, in "c)," above, the employer must offer the formula that is closest to the formulas in "b)," above, where it prospectively adjusts the retirement age to 55 years; however, the new formulas must not be construed as a retroactive benefit to employees. In addition, subject to an agreement reached through collective bargaining, and based on satisfying certain specified conditions, an employer and its employees may agree to a higher or lower plan formula, but pensionable compensation used to calculate the DB is limited to the proposed changes relating to the limitations on pensionable compensation described in "1)," immediately after the "Summary," above.

Other conditions also provide that a retirement plan contract amendment with a public employee retirement system to alter a formula must not be implemented by employers through impasse procedures or unilateral imposition without being collectively bargained represented by an agreed-upon MOU, and employers are expressly prohibited from providing a different DB formula for nonrepresented, managerial, or supervisory employees than it provides for other employees, including represented, of the same employer who are in the same membership classifications.

3) Relating to Sharing of Normal Contribution Costs

Amends the PEPRA by adding authorization for, on or after January, 1, 2026, public employers and represented employees to collectively bargain and agree to MOU terms where the employer pays a portion of the employee contributions.

This provision is not limited in its applicability to safety retirement plan members, but a safety member who is subject to the formulas in "2) b) and c)," above, who is not a new member must be subject to this proposed change.

4) Provides that the aforementioned changes must not be construed to affect any retirement benefits or pension rights accrued prior to its effective date.

5) Includes uncodified legislative findings and declarations for these purposes.

EXISTING LAW:

1) Establishes the PEPRA – a comprehensive reform of public employee retirement that, among other things, increased contribution rates towards retirement, decreased retirement benefit formulas, and increased the age of retirement that apply to new members of the system first hired on or after January 1, 2013, and made changes that apply to all members towards resolving unfunded liabilities, manipulation of compensation for purposes of calculating a retirement allowance (e.g., pensions spiking and double-dipping), and includes other prescribed best practice measures as a matter of prudent public policy. (Sections 7522.02 *et seq*., Government (Gov.) Code.)

2) Establishes, pursuant to the PEPRA, various safety plan retirement formula options as 2 percent at age 57; 2.5 percent at age 57; and, 2.7 percent at age 57, among other related provisions. (Sections 7522.25, Gov. Code.)

3) Expressly prohibits, pursuant to the PEPRA, retroactive benefit increases that apply to all public employer and employees, as provided. (Section 7522.44, Gov. Code.)

4) Requires, in any fiscal year, a public employer's contribution in combination with employee contributions to a DB plan, to not be less than the "normal cost rate" for that DB plan for that fiscal year, among other PEPRA provisions.

   The "normal cost rate" is a prescribed PEPRA standard that applies to all public employers and new employees where there must be an equal sharing of costs between them. Inclusive of this standard, employees must pay at least 50 percent of normal costs and employers not pay any part of the employee's required share of the contribution. (Section 7522.52, Gov. Code.)

5) Defines "normal cost rate" to mean the annual actuarially determined normal cost for the plan of retirement benefits provided to the new member established based on the actuarial assumptions used to determine the liabilities and costs as part of the annual actuarial valuation. The plan of retirement benefits must include any elements that would impact the actuarial determination of the normal cost, including, but not limited to, the retirement formula, eligibility and vesting criteria, ancillary benefit provisions, and any automatic cost-of-living adjustments as determined by the public retirement system, among other PEPRA provisions. (Section 7522.30, Gov. Code.)

6) Establishes, pursuant to the PEPRA, limitations on pensionable compensation where the pensionable compensation used to calculate the DB paid to a new member who retires from the system must not exceed the applicable percentage of contribution and benefit in federal law, as specified, and prescribes the manner in which a retirement system is to adjust pensionable compensation, among other provisions. (Section 7522.10, Gov. Code.)

7) Defines, including, but not limited to, the following terms in the Gov. Code pursuant to the PEPRA:

   a) "DB formula" (Section 7522.04 (a).);
   b) "Employee contributions" (Section 7522.04 (b).);
   c) "Member" (Section 7522.04 (d).);
   d) "New Employee" (Section 7522.04 (e), inclusive.);
   e) "New Member" (Section 7522.04 (f), inclusive.);
   f) "Normal cost" (Section 7522.04 (g).);
   g) "Pensionable compensation" (Section 7522.34, inclusive.);
      (Where the PEPRA prescribes a definition for "pensionable compensation," the CERL provides a definition for the analogous term "compensation earnable" (Section 31461, Gov. Code, including exclusions from this definition), and a definition for the analogous term "creditable compensation" is utilized in the TRL (Sections 22119.2 and 22119.3, Educ. Code);
   h) "Public employee" (Section 7522.04 (h).);
   i) "Public employer" (Section 7522.04 (i), inclusive.); and,
   j) "Public retirement system" (Section 7522.04 (j).).

8) Establishes the Teachers' Retirement Law (TRL), administered by the California State Teachers' Retirement System (CalSTRS), to provide a financially sound plan for the retirement, with adequate retirement allowances, of teachers in the public schools of this state, teachers in schools supported by this state, and other persons employed in connection with the schools. (Sections 22000 *et seq.*, Education (Educ.) Code.)

9) Establishes the County Employees Retirement Law of 1937 ("CERL," "1937 Act," or "'37 Act"), which governs 20 independent county retirement associations and provides for retirement systems for county and district employees in those counties adopting its provisions. Currently, 20 counties operate retirement systems under the CERL.

   Further establishes that the purpose of the CERL is to recognize a public obligation to county and district employees who become incapacitated by age or long service in public employment and its accompanying physical disabilities by making provision for retirement compensation and death benefits as additional elements of compensation for future services, and to provide a means by which public employees who become incapacitated may be replaced by more capable employees to the betterment of public service without prejudice and without inflicting a hardship upon the employees removed. (Sections 31450 *et seq.*, Gov. Code.)

10) Establishes the Public Employees' Retirement Law (PERL), administered by the California Public Employees' Retirement System (CalPERS) to effect economy and efficiency in the public service by providing a means whereby employees who become superannuated or

otherwise incapacitated may, without hardship or prejudice, be replaced by more capable employees, and to that end provide a retirement system consisting of retirement compensation and death benefits. (Sections 20000 *et seq.*, Gov. Code.)

11) Governs collective bargaining in the private sector under the federal National Labor Relations Act (NLRA), but leaves it to the states to regulate collective bargaining in their respective public sectors. (Sections 151 *et seq.,* Title 29, United States Code.)

While the NLRA and the decisions of its National Labor Relations Board (NLRB) often provide persuasive precedent in interpreting state collective bargaining law, public employees have no collective bargaining rights absent specific statutory authority establishing those rights.

12) Provides several statutory frameworks under California law to provide public employees collective bargaining rights, govern public employer-employee relations, and limit labor strife and economic disruption in the public sector through a reasonable method of resolving disputes regarding wages, hours and other terms and conditions of employment between public employers and recognized public employee organizations or their exclusive representatives.

13) Establishes the PERB, a quasi-judicial administrative agency charged with administering certain statutory frameworks governing employer-employee relations, resolving disputes, and enforcing the statutory obligations and rights of public agencies, their employees, and employee organizations, but provides the City and County of Los Angeles a local alternative to PERB oversight. (Sections 3541 *et seq.*, Gov. Code.)

14) Expressly prohibits public employee firefighters from striking and participating in a picket line during the performance of their official duties. (Sections 1962, Labor Code.) Case law similarly establishes this prohibition as applied to peace officers (*City of Santa Ana v. Santa Ana Police Benevolent Association* (1989) 207 Cal.App.3d 1568), and essential employees **(***County Sanitation District No. 2 v. Los Angeles County Employees' Assn.* (1985) 38 Cal.3d.564, 586).

FISCAL EFFECT: Unknown. This bill is flagged as fiscal by Legislative Counsel.

COMMENTS:

1) **Background**

Among other things, information provided by the author to the committee states that, "California is experiencing significant challenges in the recruitment and retention of safety personnel, including firefighters, police officers, and other first responders. Competitive retirement benefits are critical to ensuring an adequate and well-trained public safety workforce.

"Firefighters face heightened risks of occupational diseases, including elevated cancer rates. Studies have shown that firefighters have a significantly higher risk of developing multiple types of cancer due to prolonged exposure to carcinogens and hazardous materials in the line of duty. In 2022, the International Agency for Research on Cancer identified the occupation of firefighting as a Class 1 carcinogen. The physical demands of safety positions are extraordinary, requiring peak physical performance, endurance, and exposure to high-stress, life-threatening situations on a daily basis. These factors contribute to increased rates of disability, injury, and early retirement compared to other professions. Adjusting the retirement age and pension formulas for safety employees is necessary to maintain a sustainable and effective workforce while addressing the unique health and occupational challenges faced by these personnel."

In addition, "[throughout] the public sector in California…, the state is experiencing a crisis of public sector vacancies. While this crisis can be attributed to include, but not be limited to, a substantial deficiency in public awareness of public sector job vacancies or insufficient/lack of marketing, or archaic and untimely hiring practices, public employee retirement, among other things, continues to serve as a tool for recruitment and retention in the public sector.

"To help recruit and retain for the long-term, individuals into these professions who are willing to put themselves in jeopardy to protect others, this bill may help to encourage more people to join public service, especially in public safety."

2) **What is the PEPRA and Why Does it Exist?**

The enactment of the PEPRA resulted from several substantial negative legislative and public experiences that required a statutory response through prudent reforms to public employee retirement.

The enactment of Chapter 555, Statutes of 1999 (Senate Bill 400, Ortiz) that, generally increased pension benefit formulas and granted pension contribution holidays, i.e.., reduced or eliminated employer and employee contributions, under a belief that the superfunded, i.e., more than 100 percent funded, status of particular retirement systems would remain superfunded for some time following a period of substantial economic growth and pension system positive investment returns, was thereafter met by economic and financial crises due to the dot-com downturn in the early- to mid-2000s followed by the 2008 economic crisis that caused financial market instability. Both events negatively affected California's public employee pension systems' investment returns that took nearly a decade for them to recover. With the enactment of SB 400 *(ibid.)* followed by economic crises affecting pension fund investment returns, together, this resulted in increased unfunded or underfunded actuarial liabilities (UAL) or obligations (UAO).

The public outcry against that public policy coupled with those economic crises was then followed by regular and increased attention by the media and the public which highlighted the UAL/UAO; pension abuse schemes and manipulation by public employers and employees such as pension spiking, double-dipping, and other questionable and concerning pension activities, which amplified the outcry. This included regular attention by various media outlets as to public

employees whose pensions annually exceeded $100,000, i.e., "The $100,000 Club," among others.

Following those events, the threat of statewide ballot measures by attentive and well-resourced public employee pension critic interests proposed drastic austerity measures, up to and including, the elimination of public employee pensions in favor of defined contribution plans (e.g., 401(k)-style plans) or draconian reductions to pension benefit formulas, was ever-present.

In response, as a long term solution to address these concerns and others, the Legislature enacted the PEPRA as a means to address questionable pension-related activities, restore public confidence in public employee retirement, and to address long-terms costs relating to UAL/UAO. After enactment of the PEPRA, another crisis in the form of the global COVID-19 health pandemic and its ensuing uncertainty negatively affected all facets of society, including the investment market, which again, resulted in well over $100 billion in losses to California's pensions systems, followed by ongoing federal inflationary measures that affected the economy and investment markets, investments returns, and their short- and long-term assumptions where these systems continued to rigorously assess risks and seek opportunities in an effort to recover and maintain their ability to meet their statutory and constitutionally-mandated fiduciary obligations.

Currently, unilateral federal executive actions regarding federal funding, including targeting specific states to withhold such funding, as well as policies and actions through various tariff actions have resulted in substantial global investment market and economic instability, increasing unemployment, increasing inflation, questions as to whether capital gains losses can be recovered near-term, concerns regarding "stagflation" and another potential or likely forthcoming recession that may be more significant in comparison to the most recent recession, among a host of other budgetary, economic, and financial concerns. During this current period of uncertainty and what some may view as unnecessary, self-inflicted (economic) policy tumult, these systems, again, continue to rigorously assess risks and seek opportunities in an effort to continue recovery to maintain their ability to meet their statutory and constitutionally-mandated fiduciary obligations.

Since its enactment over a decade ago, two decisions by the California Supreme Court regarding the PEPRA have affirmed the Legislature's intent and enactment of this policy and today, the PEPRA continues to exist – largely unmodified, despite litigation,[1] and numerous prior legislative proposals to do otherwise, as a prudent measure and means to maintain public confidence in public employee retirement and achieve its multiple objectives.

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[1] *Alameda County Deputy Sheriff's Assn. v. Alameda County Employees' Retirement Assn.* (2020) 9 Cal.5th 1032, and *CAL FIRE Local 2881 v. CalPERS* (2019) 6 Cal. 5th 965. It is noted that while the specific subject matter of the litigation in each of these cases involve "air time" and "pensionable compensation" or "compensation earnable" that did not specifically involve CalSTRS or the TRL, the commentary regarding these two judicial decisions s is offered for historical context.

3) **California Public Employee DB Retirement: A Financial Safety Net That Helps to Protect Against Reliance on Taxpayer-Funded Public Financial Assistance Programs**

Historically, in California, the subject of public employees and their retirement periodically tends to become what some describe as "low-hanging fruit" for "easy picking" as justification for reductions or austerity measures to address a budgetary or fiscal crisis, which may distract from the actual or substantive cause(s) of such challenges.

Though largely, but not necessarily entirely, supported by taxpayer funds, public employees work, earn wages for that work, contribute their fair share from their earnings towards their retirement, pay taxes, and spend those earnings on goods and services that support business, employment, and local and state economies.[2] The latter also holds true for retired public employees, and each of these are substantially similar to what private sector employees do as well (work, earn wages, contribute to their retirement (should they have one), pay taxes, and spend their earnings).

In contributing towards retirement, a combination of a public employee's and their employer's contributions are then invested – managed by investment experts who are legally and exclusively bound to the employee's retirement interests to ensure that the pension promised at the time they became employed and eligible to participate in a public employee retirement system, exists at the time they retire. Unlike a defined contribution (DC) retirement plan (e.g., 401(k)-style plan), a DB retirement plan provides certainty and a level of financial security in retirement; thereby, serving as a financial surety of sorts against the potential or likely reliance on taxpayer-funded public financial assistance programs in retirement, which creates taxpayer savings that can be invested in important and necessary public services and programs (e.g., education, housing, transportation, health/healthcare, etc.).

In comparison, employees who have a DC retirement plan bare all decision risks regarding how much to contribute, when to contribute, and what to invest in to achieve their retirement "nest egg" objective. Typically, while they may receive an employer match of their contributions up to a certain maximum, should they not sufficiently or timely contribute, or make an incorrect investment decision, such decisions can have negative long-term or disastrous financial effects as their ability, including timely ability, to achieve their retirement objective. In turn, such consequences may increase the potential or likelihood that they may be dependent on taxpayer-funded public financial assistance programs during their later years. While they may also receive an amount from social security, this source of income may be insufficient to maintain a reasonably desirable standard of living in retirement. Historically, well-studied, well-documented, and reasonably of common knowledge, this is more pronounced for women in comparison to men during their later years.

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[2] Some public employees work for a public entity that may be "self-funded," "independently-funded," or supported by a combination of taxpayer and non-taxpayer sources. For example, the California Department of Insurance is, but one, among other such public entities.

In California, public employees who are police, firefighters, or teachers do not participate in social security for those years of non-social security-covered employment. The DB retirement formulas, particularly for police and firefighting personnel, are more generous in comparison to non-safety members (with the exception of judges and justices of the state's courts), and this exists in part, to provide a modicum offset to that loss. Nevertheless, if the entirety of their professional career is in one of these public service professions, when they retire, their DB pension may be their sole source of retirement income.

4) **Vacancies Throughout California Government**

The committee is reminded of its informational hearing on May 10, 2023, titled "Strengthening California through the Public Sector and Its Workforce," which focused on various subjects relating to vacancies in the public sector and contracting of such work.

During that hearing, the committee heard from a number of panelists, including experts from the University of California at Berkeley Labor Center, where data was provided and substantial concerns were expressed by other panelists about the ongoing and increasing reliance by public employers, including the state – as an employer, on a contingent, part-time, temporary, contracted out, or retired annuitant workforce to fill public sector vacancies, or to perform the duties of willing and capable existing and prospective public employees. These concerns also detailed how public employers are increasingly relying on these forms of employment and in a manner that has deleterious effects on wage growth, employee morale, employer-employee relations, and the need to ensure operational consistency and quality in the provision of services to the public that could be performed by permanent employees.

Following that hearing, on April 17, 2024, the committee held another informational hearing relating to that subject titled: "Public Service Delivery and Workforce Wellbeing – Addressing the Vacancy Crisis in Local Government," where civil service vacancies, impacts of vacancies on the civil service workforce and services, and collaborative solutions to address civil service vacancies, were discussed.

Among other prior and current bills, this bill may be viewed as another public policy proposal towards addressing the crisis of vacancies in the public sector, including public safety personnel vacancies, where a DB retirement plan, among other attributes of public service, serves as a substantive tool for recruitment and retention.

5) **Cost-Savings Resulting from the PEPRA**

At the time the PEPRA was contemplated and considered, a preliminary analysis originally projected to save the state between $42 and $55 billion (with an estimated present value of the dollar of savings between $12 and $15 billion) over 30 years for all State, schools and local plans. Factors considered in that preliminary analysis include attrition, including pre-PEPRA members, i.e., "classic" members, who retire and who would then be replaced by employees

subject to the PEPRA retirement formulas, among others.[3] As a caveat to the aforementioned savings, a number of assumptions were considered that could result in those savings either being greater or less than originally projected. These assumptions, included, but were not limited to, employee sharing of normal contribution costs; contributions up to the compensation capitation on all of their compensation; and, changes to DB disability retirement.

As of June 30, 2024, the PEPRA has achieved approximately $5.8 billion in savings to the state since 2013, and is projected to significantly accelerate and increase those savings during the remainder of the 30-year projection, as more new public employees hired would be subject to the PEPRA. Also as of June 30, 2024, the percentage of active members whom are subject to the PEPRA, at least in CalPERS, is 63.4 percent.[4]

6) **Additional Information to the Committee and Author**

The committee and author is informed that should this bill advance beyond this committee, additional amendments may be necessary, including technical, clarifying, or conforming changes to the current version of this bill, and/or other PEPRA- and non-PEPRA-related provisions in the PERL, TRL, and CERL, respectively.

In addition, while this writing discusses, among other things, the current and projected future savings of the PEPRA, it defers to the Assembly Committee on Appropriations as to the costs of this bill, as that subject is within the jurisdiction of that committee.

7) **Statement by the Author**

"Fifteen years ago and in order to stabilize the state's retirement system, the Legislature made significant modifications to public employee retirement benefits including the retirement formulas, the age of retirement and requiring public employees to contribute more to their own retirement benefits.

"While many of the changes to PEPRA are still necessary for the long term health of the retirement fund, retirement formula reductions are a contributing factor to vacancies throughout the public sector in this state, especially with our first responders.

"[This bill] does not grant retroactive retirement benefit increases or pension holidays and it does not change other necessary and appropriate PEPRA guardrails," and "… only applies prospectively, recognizing the ongoing challenges and dedication of our firefighters, police and the unique challenges and risks associated with a career as a first responder. "[This bill] represents our need to recruit and retain the next generation of first responders needed to protect the lives and property of residents across California."

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[3] *"Actuarial Cost Analysis California Public Employees' Pension Reform Act of 2013."* CalPERS, August 31, 2012.
[4] "2024 Annual Review of Funding Levels and Risk." CalPERS Board of Administration, Agenda Item 6a at p.14, November 2024.

8) **Comments by Supporters**

Among other things, the California Professional Firefighters express, generally, that pensions provide a secure retirement and has been a guiding light for a career in public service. Similarly noting current realized savings from the PEPRA and projected savings in the future, because it has been 12 years since its effectuation, they believe that it is time to revisit specific provisions of the act to ensure that it aligns with the demands of occupations across the public sector, including firefighters. Because firefighting is one of the most dangerous and demanding jobs, pensions are a good investment for the health and security of retirees, as well as for the state's economy.

The Peace Officers' Research Association of California express that, as the backbone of public safety and facing relentless physical and mental health challenges, such work takes a toll on police personnel, and the promise of a pension after decades of public service and sacrifice has been eroded by outdated constraints, such as the PEPRA. Among other things, the PORAC states that, "[this bill] rights that ship, delivering targeted, common-sense reform that honor our public servants without breaking the bank."

Numerous other supporters offer similar statements.

9) **Comments by Opponents**

A coalition of various local government representatives, i.e., cities, counties (rural and urban), and special districts express, generally, that the PEPRA is designed to address a wide range of issues involving public employee pensions and helps local agencies to better manage future pension costs to prevent public employee retirement systems from sliding into insolvency. "This bill would upend mane of [those] reforms…." Also, while noting the PEPRA's current and project future savings, they state that, "[the data] does not include the public agencies that maintain their own pension system," and "[the PEPRA] helps support budgetary stability which supports operational and workforce stability."

Further, they express that this bill increases "mandate costs without a way for public agencies to absorb them," especially, "at a time of fiscal uncertainty." Moreover, "[similar] to the state, local agencies also are facing budget challenges, as revenues are not keeping pace with the costs of delivering services, new mandates, and heightened uncertainty over critical resources," and "[this bill is proposed] in a year when CalPERS is undergoing its asset liability management process which could lead to additional costs for local governments." They further express that while CalPERS recently lost $15 billion as a result of market volatility, if it misses its investment return assumption, local agencies will have to pay CalPERS the difference. "[This bill] would compound costs for local governments and do nothing to offset the costs."

10) **Prior or Related Legislation**

Assembly Bill 1054 (Gipson, 2025) proposes to establish the Deferred Retirement Option Program (DROP) for State Bargaining Units 5 (Highway Patrol) and 8 (CAL FIRE), among

other provisions. This bill is currently pending in the Assembly Committee on Public Employment and Retirement.

Assembly Bill 569 (Stefani, 2025) proposed to amend the PEPRA relating to supplemental DB plan exceptions by authorizing a public employer to bargain over contributions for supplemental retirement benefits administered by, or on behalf of, an exclusive bargaining representative of one or more of the public employer's bargaining units. This bill is currently pending in the Assembly Committee on Public Employment and Retirement.

Chapter 296, Statutes of 2012 (Assembly Bill 340, Furutani) established the PEPRA.

REGISTERED SUPPORT / OPPOSITION:

Support

California Professional Firefighters *(Sponsor)*
Peace Officers Research Association of California *(Co-Sponsor)*
Alameda City Firefighters, Local 689
Alameda County Firefighters, IAFF, Local 55
Anaheim Firefighters Association, Local 2899
Atascadero City Firefighters, Local 3600
Burbank Fire Fighters, Local 778
California Association of Psychiatric Technicians
California Federation of Labor Unions, AFL-CIO
Carlsbad Firefighters Association, Local 3730
Cathedral City Firefighters Association, Local 3654
Chico Firefighters, Local 2734
Chula Vista Firefighters, Local 2180
Compton Firefighters, Local 2216
Contra Costa County Professional Firefighters, Local 1230
Corona Firefighters Association, Local 3757
Coronado Firefighters Association, Local 1475
Costa Mesa Firefighters, Local 1465
Davis Professional Firefighters Association, Local 3494
El Cajon Firefighters, Local 4603
El Dorado Hills Professional Firefighters, Local 3604
Encinitas Firefighters Association, Local 3787
Escondido Firefighters, Local 3842
Fallbrook Firefighters Association, Local 1622
Fremont Firefighters, IAFF, Local 1689
Fullerton Firefighters Association, Local 3421
Gilroy Firefighters, IAFF, Local 2805
Glendale Professional Firefighters, Local 776
Hayward Firefighters, Local 1909

Heartland Firefighters of La Mesa, Local 4759
Heartland Firefighters of Lemon, Grove Local 2728
Hemet City Firefighters Association, Local 2342
Kern County Firefighters, IAFF, Local 1301
Lakeside Firefighters Association, Local 4488
Long Beach Firefighters, Local 372
Marin Professional Firefighters, Local 1775
Modesto City Firefighters, Local 1289
Monrovia Firefighters, Local 2415
Monterey Firefighters Association, Local 3707
Murrieta Firefighters, Local 3540
NASA JPL Professional Firefighters, Local I-94
National City Firefighters Association, Local 2744
Nevada County Professional Firefighters, Local 3800
Newport Beach Firefighters Association, Local 3734
Oakland Firefighters, Local 55
Oceanside Firefighters Association, Local 3736
Ontario Professional Firefighters, Local 1430
Orange City Firefighters, Local 2384
Orange County Professional Firefighters Association, Local 3631
Oxnard Firefighters, Local 1684
Palm Springs Firefighters Association, Local 3601
Poway Firefighters Association, Local 3922
Professional Firefighters of Sonoma County, Local 1401
Rancho Cucamonga Firefighters Association, Local 2274
Redlands Professional Firefighters Association, Local 1354
Riverside City Firefighters Association, Local 1067
Sacramento Area Firefighters, Local 522
Salinas Firefighters, Local 1270
San Diego City Fire Fighters, IAFF, Local 145
San Jose Fire Fighters, Local 230
San Marcos Firefighters Association, Local 4184
Santa Barbara City Firefighters Association, Local 525
Santa Barbara County Firefighters, Local 2046
Santa Clara City Firefighters, Local 1171
Santa Clara County Firefighters, Local 1165
Service Employees International Union, California
Solana Beach Firefighters, Local 3779
Stockton Firefighters, Local 456
Torrance Firefighters Association, Local 1138
Vandenberg Professional Firefighters, Local F-116
Ventura County Professional Firefighters Association, Local 1364
Vista Firefighters Association, Local 4107

Opposition

California Special Districts Association
California State Association of Counties
League of California Cities
Rural County Representatives of California
Urban Counties of California

Analysis Prepared by: Michael Bolden / P. E. & R. / (916) 319-3957

April 17, 2025

The Honorable Tina McKinnor
Chair, Assembly Committee on Public Employment and Retirement
1020 N Street, Room 153
Sacramento, CA 95814

RE: **AB 1383 (McKinnor) Public employees' retirement benefits.**
OPPOSE *(As Amended April 11, 2025)*

Dear Assembly Member McKinnor,

The League of California Cities (Cal Cities), California State Association of Counties (CSAC), California Special Districts Association (CSDA), Rural County Representatives of California (RCRC), and Urban Counties of California (UCC) write to inform you of our respectful opposition to your Assembly Bill (AB) 1383. This bill would make several significant changes to public employees' retirement benefits, which would ultimately lead to increased pension liability for public agencies.

The Public Employees' Pension Reform Act (PEPRA) was passed in 2012, and most of its provisions went into effect Jan. 1, 2013. PEPRA was designed to address a wide range of issues involving public employee pensions and was a major step in helping local agencies better manage future pension costs and prevent the California Public Employees Retirement System from sliding into insolvency. AB 1383 would upend many of the reforms put in place in 2013 by PEPRA.

Specifically, this bill would:

- Increase the pensionable compensation cap;
- Reduce the retirement age for public safety from 57 to 55 prospectively;
- Add a 4th safety tier that is 3% @ 55, prospective and subject to bargaining;
- Allow local agencies to adjust their local formula in a prospective manner; and
- Permit authorized employee representatives to bargain with the employer over the employee share of payment for the normal cost.

While we recognize and appreciate the intent of the bill to support recruitment and retention of essential public safety professionals, the bill would impose increased local pension obligations and undo critical pension reform.

PEPRA has been in place since 2013, and we have had the opportunity to see its impact on pension funds and local agencies. For the state, schools, and public agencies in CalPERS, PEPRA has already led to $5.8 billion in savings. As years go by and the public sector force skews towards more new members, those savings will increase dramatically. Over the next ten years, PEPRA is expected to result in $26.5 billion in cost savings for CalPERS members[1]. This data does not include the public agencies that maintain their own pension system. PEPRA helps support budgetary stability which supports operational and workforce stability.

AB 1383 increases mandated costs without a way for public agencies to absorb them. The potential cost of this bill comes at a time of fiscal uncertainty. Much like the state, local agencies are facing budget challenges, as revenues are not keeping pace with the costs of delivering services, new mandates, and heightened uncertainty over critical resources. Some counties are currently considering significant budget cuts across all departments. AB 1383 would cause increased benefit costs and new cost pressures over the provisions that can be bargained, leading to serious cost increases for local government.

AB 1383 is also being introduced in a year in which CalPERS is undergoing its asset liability management (ALM) process which could lead to additional costs for local governments. As of June 30, 2024, the Public Employees Retirement Fund (PERF) was approximately 75% funded. Just recently, CalPERS lost about $15 billion as a result of market volatility. If CalPERS misses its investment return mark of 6.8% on June 30th, local agencies in CalPERS have to pay the difference. Again, this bill would compound costs for local governments and do nothing to offset the costs.

While this bill may be prospective, agencies have already been authorizing salary increases since the passage of PEPRA under the assumption that the cost of benefits would remain in line with current PEPRA law. The prospective costs would likely cause an immediate financial strain on any agency, especially those with a large number of PEPRA safety employees.

Local government decision makers and public agency department heads have been implementing innovative ways to try to boost recruitment and retention and would welcome additional state support and resources for these efforts. However, adding another unfunded mandate on public agencies will not solve the problem of retention and recruitment. It is critical that our pension policy offers sustainable retirement benefits to public agency employees while at the same time ensuring that public agencies have solid retirement benefits to attract and retain highly talented employees.

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[1] CalPERS 2024 Annual Review of Funding Levels and Risk (published November 2024)

By increasing the cost of these benefits, AB 1383 would result in less money for salary increases, which could therefore harm future recruitment efforts. Additionally, the changes in this bill could result in labor unrest by furthering the equity issues between safety and non-safety employees.

Unfortunately, pension costs for many California public agencies continue to be a challenge, threatening the delivery of basic public services, compromising general fund budgets and indeed, posing a long-term fiscal challenge to the State itself. That is why it is increasingly important that any change to the system be sustainable, fair to taxpayers and employees, and provide long-term financial stability. Any change to PEPRA must protect the fiscal integrity of public agencies and retirement for public employees.

Our organizations are committed to ensuring competitive benefits for public servants while maintaining the fiscal integrity of critical local services. However, as drafted, this bill would not protect the fiscal integrity of public agencies and would send public agencies and our pension funds in the wrong direction.

For the reasons discussed above, the organizations listed below are respectfully opposed to AB 1383. We look forward to continued conversations and collaboration with stakeholders on addressing pension sustainability and employee retention and recruitment. If you have any questions, please do not hesitate to contact our organizations' representatives directly.

Sincerely,

Johnnie Piña
Legislative Advocate
League of California Cities
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Sarah Dukett
Policy Advocate
Rural County Representatives of California
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Eric Lawyer
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Jean Hurst
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CC:

Honorable Members, Assembly Committee on Public Employment and Retirement
Michael Bolden, Principal Consultant, Assembly Committee on Public Employment and Retirement
Lauren Prichard, Policy Consultant, Assembly Republican Caucus

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Orange County Fire Authority
April 2025 Report

Congress

Budget Reconciliation Update

- Republicans in the House and Senate are continuing their work on a budget reconciliation package that will allocate funding for defense, energy, and border security, reauthorizes the 2017 Tax Cuts and Jobs Act, and cuts domestic spending.

- On April 10, the House narrowly passed a budget resolution previously advanced by the Senate, which will allow House and Senate committees to formally draft the reconciliation bill. When Congress returns on April 28, designated committees will begin markups of their respective parts of the bill.

- The Homeland Security Committees in the House and Senate have been tasked with allocating tens of billions for border security funding. The House Energy and Commerce Committee will meet on May 5, where it is tasked with slashing $880 billion in federal funding – which many expect will come from safety net programs like Medicaid.

- Despite the House clearing the key procedural hurdle, there remain key divides among the House Republican conference over the amount of spending cuts and certain tax provisions included in a final bill. House Speaker Mike Johnson announced that he would like to pass a bill before Memorial Day, which will require the Speaker, Senate Majority Leader John Thune (R-SD), and President Trump to weigh in with holdouts to meet the Speaker's goal.

- A reconciliation bill could also include an extension of the federal debt ceiling. The Bipartisan Policy Center (BPC) released its Debt Limit Analysis, predicting that the United States is anticipated to default on its $36 trillion national debt between mid-July and early October if Congress does not act to raise the debt ceiling.

FY 2025 Budget & Appropriations Update

- On March 14, Congress passed a six-month continuing resolution (CR) that extends government funding through September 30. This option did not include Community Project Funding and Congressionally Directed Spending requests that were in the House/Senate FY25 appropriations bills.

- After urging Republicans to pass a one-month short-term CR to provide Congress additional time to negotiate FY25 funding bills and voicing opposition to the six-month CR, Senate Minority Leader Chuck Schumer announced on Thursday, March 13, that he would support the six-month CR, paving the way for the House-passed CR to get through the Senate. Schumer's announcement that he would support the CR led to an uproar among Democrats,

including those in his caucus and in the House. The CR includes a slight increase in military spending and a $13 billion cut from FY24 levels in domestic nondefense spending.

- Of note, the Department of Homeland Security had 45 days to develop a expenditure report for those programs, including Urban Search & Rescue, that have funding levels not specifically mentioned in the bill text. We worked with US&R task force leadership to send a letter asking that DHS honor the House-passed level of $56 million.

- President Trump is expected to send Congress his FY 2026 skinny budget at the end of April though that could potentially be pushed to May. Details of his budget proposal have begun to leak from a process called "passbacks," in which the Office of Management and Budget (OMB) sends a budget document to agencies, outlining their proposed budget allocations for the upcoming fiscal year.

- This document serves as the OMB's response to the agencies' initial budget requests and essentially sets the stage for the next stage of the budget process where Congress will consider and potentially modify the proposed budget.

- Given some of leaks reported in the press, as well as other actions the Administration is already taking (ie: cancellation of the FEMA BRIC program) it is expected that the budget request will be the blueprint for reorganizing the federal government.

<u>FY 2026 Community Project Funding Update</u>

- House Appropriations Committee Chair Tom Cole released guidance for the House's FY26 community project funding and programmatic request process. Chair Cole has announced that members will continue to be limited to 15 requests for FY26. In advance of the guidance, some members have released their community project funding (CPF) forms, while many waited for the Chairman to release the respective full committee and subcommittee guidance.

- OCFA resubmitted its CPF request from FY25 to Reps. Young Kim (R-CA) and Derek Tran (D-CA) for fire station improvements. Former Rep. Michelle Steel and Rep. Kim advanced the project during the FY25 funding cycle, but it was ultimately not funded because Congress enacted a year-long CR which does not allow for community project funding.

- On April 10, the Senate released its Congressionally Directed Spending guidance. However, Senators Padilla and Schiff released and closed their respective forms before the Senate Appropriations Chair and Co-Chair released their FY26 guidance.

<u>House Homeland Security Subcommittee Holds DHS Oversight Hearing</u>

- On March 11, the House Homeland Security Subcommittee on Oversight, Investigations, and Accountability held a hearing entitled "Eliminating Waste, Fraud, and Abuse at the Department of Homeland Security: Addressing the Biden-Harris Administration's Failures."

- Of note, Chris Currie, Director of the Homeland Security and Justice Team for the U.S. Government Accountability Office (GAO) testified about recent studies and recommendations the GAO has made. In his testimony, Mr. Currie stated the GAO has designated two DHS areas to its High-Risk List: Improving the Delivery of Federal Disaster Assistance and Strengthening DHS IT and Financial Management Functions.

- As of March 2025, GAO has made 459 recommendations to DHS that remain open. These recommendations are designed to address the various challenges discussed in Mr. Currie's statement. While DHS has taken steps to address some of these recommendations, it is expected that the White House will take action in the very near future with regards to improving the delivery of Federal Disaster Assistance.

House T&I Committee Holds Hearing on FEMA Reform – Legislation Introduced to Restore FEMA as Cabinet-Level Agency

- On March 25, the House Committee on Transportation and Infrastructure (T&I) Subcommittee on Economic Development, Public Buildings, and Emergency Management held a hearing entitled "Reforming FEMA: Bringing Common Sense Back to Federal Emergency Management." The hearing centered on the bureaucratic processes within the federal emergency management system, which are preventing communities from accessing funds.

- Members questioned the witnesses on their envisioned solutions to FEMA's reimbursement and housing assistance process, their perspective on the integration of modern technological systems in natural disaster offices, and alternative ways to address emerging heat-related disaster events.

- Lawmakers representing districts in the Southwestern U.S. discussed heat as a "silent killer," often not getting the attention it deserves from federal disaster management entities. Ranking Member Stanton also noted the importance of reforming FEMA to address extreme heat.

- Senators Padilla (D-CA) and Tillis (R-NC), along with members of the House, introduced, *FEMA Independence Act*, a bipartisan bill to reform federal emergency management and improve efficiency in federal emergency response efforts. This legislation would remove the Federal Emergency Management Agency (FEMA) from the Department of Homeland Security (DHS) and restore it as an independent, Cabinet-level agency reporting directly to the President.

- It would also stipulate that FEMA's Senate-confirmed leader must have "a demonstrated ability in and knowledge of emergency management and homeland security" across the public and private sectors.

House Homeland Security Committee Holds Hearing on Use of UAS Technology

- On April 1, the House Homeland Security Committee held a hearing to examine the use of unmanned aircraft systems (UAS) across the Department of Homeland Security enterprise. Division Chief Kevin Fetterman of the Orange County Fire Authority appeared and

presented testimony on behalf of the International Association of Fire Chiefs. Witness testimony can be found here.

- During the hearing, Subcommittee on Border Security and Enforcement Chair Michael Guest (R-MS) asserted that UAS, or drones, are a critical component to keeping Americans safe and securing the United States' borders. Subcommittee Ranking Member Lou Correa (D-CA) voiced support for the use of drones in the federal government but added his concern over the Trump Administration's supposed efforts to dismantle some functions of the Department.

- Members, including Division Chief Fetterman, spoke about the importance of DHS grants, the National Fire Academy, and the U.S. Fire Administration in supporting firefighters. Chief Fetterman also voiced support for the deployment of drones to assist first responders during emergency operations.

Public Safety Officer Free Speech Act Introduced

- Sen. Eric Schmitt (R-MO) introduced legislation (S. 1247) to protect the rights of firefighters and other first responders who voice concerns about workplace conditions. The Public Safety Free Speech Act specifically clarifies that first responders may bring an action against an employer if the employer fires or disciplines the employee for expressing the employee's opinion on certain matters.

- Under the legislation, the following issue areas would be protected speech:
    - Delivery of public safety services
    - Employee compensation or benefits
    - Working conditions or scheduling, including the provision of personal protective equipment, work tools and equipment, or work vehicles
    - Employer's policies or procedures
    - Other expectations or requirements that the employer places on a covered employee as a term or condition of their employment;
    - Political and religious opinions.

- The bill's House companion was introduced in by Reps. Jeff Van Drew (R-NJ) and Steve Cohen (D-TN), with eight other members cosponsoring. The Senate bill currently has zero cosponsors.

Reps. Mullin, Kim, and Tokuda Lead Letter Advocating for Increased Funding for Urban Search & Rescue

- Reps. Kevin Mullin (D-CA), Young Kim (R-CA), and Jill Tokuda (D-HI) are leading a bipartisan House letter to the House Appropriations Homeland Security Subcommittee Chair and Ranking Member advocating for increased funding for the National Urban Search & Rescue (US&R) Response System. The lawmakers requested that the Appropriations Committee fund US&R at $56 million for FY26. US&R was ultimately funded at $40 million in FY25, considerably lower than the House-passed $56 million figure in FY25.

- Rep. Mullin led a letter last year urging House and Senate leadership to include additional funding for US&R in a supplemental funding bill. The letter's leaders are requesting that interested parties engage with their congressional delegation and urge them to sign on to the letter supporting US&R funding.

Administration

President Trump Signs Executive Order: Achieving Efficiency Through State and Local Preparedness

- President Trump signed an executive order entitled "Achieving Efficiency Through State and Local Preparedness." The executive order aims to simplify federal preparedness policy to enable state and local governments to better serve the communities they represent.

- The order calls on relevant federal departments to publish a National Resilience Strategy and recommend to the President measures that are necessary to secure the nation's critical infrastructure. The President also directed relevant federal departments to review all national preparedness and response policies and move away from an "all-hazards approach."

- Since taking office, President Trump has remained highly critical of FEMA's ability to swiftly deliver relief to disaster areas. While the executive order does not direct the federal government to dismantle the agency, it intends to investigate how the federal government can deliver more control of disaster response to state and local jurisdictions.

Questions Arise Following Closure of National Fire Academy

- Stakeholders have reached out to the Trump Administration, requesting officials reopen the National Fire Academy after it was closed on March 7. With its closure, instructor-led virtual training was canceled. Participants can only view past virtual instruction.

- The International Fire Chiefs Association is urging its membership to reach out to their federal delegation to ask the Trump Administration to reopen the Academy.