

**Assembly
California Legislature
Committee on Rules**

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RIVAS, ROBERT
WICKS, BUFFY

DIEP, TYLER (R-ALT)
LEVINE, MARC (D-ALT)

Tuesday, May 26, 2020
12:45 p.m.
State Capitol, Room 4202

CONSENT AGENDA

BILL REFERRALS

1. Bill Referrals [Page 2](#)

REQUESTS TO ADD URGENCY CLAUSE

2. AB-2043 (Robert Rivas) Occupational safety and health: agricultural employers and employees: COVID-19 response. [Page 4](#)
3. AB-2257 (Gonzalez) Worker classification: employees and independent contractors: occupations: professional services. [Page 17](#)
4. AB-2450 (Grayson) Air ambulance services. [Page 51](#)
5. AB-2932 (O'Donnell) City of Long Beach: design-build process. [Page 58](#)
6. AB-3256 (Eduardo Garcia) Economic Recovery, Wildfire Prevention, Safe Drinking Water, Drought Preparation, and Flood Protection Bond Act of 2020. [Page 61](#)
7. AB-3366 (Committee on Judiciary) Judicial emergencies. [Page 95](#)
8. SB-350 (Hill) The Golden State Energy Act. [Page 110](#)
9. SB 625 (Bradford) Central Basin Municipal Water District: receivership [Page 148](#)

REQUEST TO WAIVE THE 30-DAY IN PRINT RULE

10. ACA-25 (Mullin) State of emergency: remote legislative proceedings. [Page 165](#)



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Assembly
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KEN COOLEY
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SHARON QUIRK-SILVA
JAMES C. RAMOS
ROBERT RIVAS
BUFFY WICKS

MARC LEVINE (D-ALT.)
TYLER DIEP (R-ALT.)

Memo

To: Rules Committee Members
From: Michael Erke, Bill Referral Consultant
Date: 5/22/2020
Re: Consent Bill Referral

Attached are two bill referral recommendations.

REFERRAL OF BILLS TO COMMITTEE

05/26/2020

Pursuant to the Assembly Rules, the following bills were referred to committee:

Assembly Bill No.

Committee:

ACA 25

RLS.

SB 417

APPR.

AMENDED IN ASSEMBLY MAY 11, 2020

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 2043

**Introduced by Assembly Member Gonzalez Members Robert Rivas,
Eduardo Garcia, and Gonzalez
(Coauthor: Assembly Member Bonta)**

February 3, 2020

~~An act to amend Section 12940 of the Government Code, relating to employment. An act to add and repeal Section 6725 of the Labor Code, relating to employment.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2043, as amended, ~~Gonzalez Robert Rivas. Unlawful business practices: employer liability: contracted supervisor. Occupational safety and health: agricultural employers and employees: COVID-19 response.~~

Existing law, the California Occupational Safety and Health Act of 1973, provides the Division of Occupational Safety and Health within the Department of Industrial Relations with the power, jurisdiction, and supervision over all employment and places of employment necessary to enforce and administer all occupational health and safety laws and standards and to protect employees. Under the act, the Occupational Safety and Health Standards Board within the division is authorized to adopt, amend, or repeal occupational safety and health standards and orders. The act requires an employer to, among other things, provide safety devices and safeguards reasonably adequate to render the place of employment safe. A violation of the act under specific circumstances is a crime.

This bill would require the standards board, by February 1, 2021, to adopt occupational safety and health standards for novel coronavirus

(COVID-19) infection prevention for agricultural employers and employees, as defined. The bill would require the division to disseminate information on best practices to agricultural employers commencing on January 1, 2021 and whenever the guidance document is updated, in both English and Spanish. The bill would also require the division or its designee to work collaboratively with community organizations to conduct a targeted outreach campaign, including public service announcements on local Spanish radio stations and the distribution of workplace signs. The bill would require agricultural employers to implement the provisions of the guidance document entitled “Safety and Health Guidance: COVID-19 Infection Prevention for Agricultural Employers and Employees” as it is put forth and updated by the division. The bill would exempt regulations adopted to implement these provisions from the rulemaking provisions of the Administrative Procedure Act. The bill would repeal these provisions when the state of emergency has been terminated by proclamation of the Governor or by concurrent resolution of the Legislature, as specified, or on January 1, 2022, whichever is later. By expanding the definition of an existing crime, this bill would impose a state-mandated local program.

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

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

~~Existing law, the California Fair Employment and Housing Act, among other things, prohibits an employer, a labor organization, an employment agency, an apprenticeship training program, or any training program leading to employment from harassing, based upon enumerated protected characteristics, such as race or gender, an employee, an applicant, an unpaid intern or volunteer, or a person providing services pursuant to a contract.~~

~~This bill would also make a client employer responsible for the acts of a contracted supervisor, as those terms are defined, for specified prohibited harassment under these provisions.~~

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

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

1 *SECTION 1. Section 6725 is added to the Labor Code, to read:*

2 *6725. (a) For purposes of this section, the following terms*
3 *have the following meanings:*

4 *(1) The term “agricultural employee” or “employee” means*
5 *one engaged in agriculture, as defined in subdivision (a) of Section*
6 *1140.4. “Agricultural employee” or “employee” shall not be*
7 *construed to include any person other than those employees*
8 *excluded from the coverage of the National Labor Relations Act,*
9 *as amended, as agricultural employees, pursuant to Section 2(3)*
10 *of the Labor Management Relations Act (29 U.S.C. Sec. 152(3)),*
11 *and Section 3(f) of the Fair Labor Standards Act (29 U.S.C. Sec.*
12 *203(f)).*

13 *(2) The term “agricultural employer” shall be liberally*
14 *construed to include any person acting directly or indirectly in the*
15 *interest of an employer in relation to an agricultural employee,*
16 *any individual grower, corporate grower, cooperative grower,*
17 *harvesting association, hiring association, land management*
18 *group, any association of persons or cooperatives engaged in*
19 *agriculture, and shall include any person who owns or leases or*
20 *manages land used for agricultural purposes, but shall exclude*
21 *any person supplying agricultural workers to an employer, any*
22 *farm labor contractor as defined in Section 1682, and any person*
23 *functioning in the capacity of a labor contractor. The employer*
24 *engaging such labor contractor or person shall be deemed the*
25 *employer for all purposes under this section.*

26 *(3) “Guidance document” means the document disseminated*
27 *by the division entitled “Safety and Health Guidance: COVID-19*
28 *Infection Prevention for Agricultural Employers and Employees.”*

29 *(b) By February 1, 2021, the standards board shall adopt*
30 *occupational safety and health standards for novel coronavirus*
31 *(COVID-19) infection prevention for agricultural employers and*
32 *employees. The standards shall include, but shall not be limited*
33 *to, sanitation practices, personal protective equipment, and*
34 *physical distancing requirements.*

35 *(c) The division shall disseminate information on best practices*
36 *to agricultural employers commencing on January 1, 2021 and*
37 *whenever the guidance document is updated, in both English and*
38 *Spanish. The division or its designee, working collaboratively with*

1 community organizations, shall conduct a targeted outreach
2 campaign, including, but not limited to, public service
3 announcements on local Spanish radio stations and the distribution
4 of workplace signs.

5 (d) Agricultural employers shall implement the provisions of
6 the guidance document as it is put forth and updated by the
7 division.

8 (e) Notwithstanding any law, regulations adopted to implement
9 this section are not subject to the rulemaking provisions of the
10 Administrative Procedure Act (Chapter 3.5 (commencing with
11 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
12 Code).

13 (f) This section shall remain in effect until the state of emergency
14 has been terminated by proclamation of the Governor or by
15 concurrent resolution of the Legislature declaring it at an end,
16 pursuant to Section 8629 of the Government Code, or until January
17 1, 2022, whichever is later, and as of that date is repealed.

18 SEC. 2. No reimbursement is required by this act pursuant to
19 Section 6 of Article XIII B of the California Constitution because
20 the only costs that may be incurred by a local agency or school
21 district will be incurred because this act creates a new crime or
22 infraction, eliminates a crime or infraction, or changes the penalty
23 for a crime or infraction, within the meaning of Section 17556 of
24 the Government Code, or changes the definition of a crime within
25 the meaning of Section 6 of Article XIII B of the California
26 Constitution.

27 ~~SECTION 1. Section 12940 of the Government Code is~~
28 ~~amended to read:~~

29 ~~12940. It is an unlawful employment practice, unless based~~
30 ~~upon a bona fide occupational qualification, or, except where based~~
31 ~~upon applicable security regulations established by the United~~
32 ~~States or the State of California:~~

33 ~~(a) For an employer, because of the race, religious creed, color,~~
34 ~~national origin, ancestry, physical disability, mental disability,~~
35 ~~medical condition, genetic information, marital status, sex, gender,~~
36 ~~gender identity, gender expression, age, sexual orientation, or~~
37 ~~military and veteran status of any person, to refuse to hire or~~
38 ~~employ the person or to refuse to select the person for a training~~
39 ~~program leading to employment, or to bar or to discharge the~~
40 ~~person from employment or from a training program leading to~~

1 employment, or to discriminate against the person in compensation
2 or in terms, conditions, or privileges of employment.

3 ~~(1) This part does not prohibit an employer from refusing to~~
4 ~~hire or discharging an employee with a physical or mental~~
5 ~~disability, or subject an employer to any legal liability resulting~~
6 ~~from the refusal to employ or the discharge of an employee with~~
7 ~~a physical or mental disability, if the employee, because of a~~
8 ~~physical or mental disability, is unable to perform the employee's~~
9 ~~essential duties even with reasonable accommodations, or cannot~~
10 ~~perform those duties in a manner that would not endanger the~~
11 ~~employee's health or safety or the health or safety of others even~~
12 ~~with reasonable accommodations.~~

13 ~~(2) This part does not prohibit an employer from refusing to~~
14 ~~hire or discharging an employee who, because of the employee's~~
15 ~~medical condition, is unable to perform the employee's essential~~
16 ~~duties even with reasonable accommodations, or cannot perform~~
17 ~~those duties in a manner that would not endanger the employee's~~
18 ~~health or safety or the health or safety of others even with~~
19 ~~reasonable accommodations. Nothing in this part shall subject an~~
20 ~~employer to any legal liability resulting from the refusal to employ~~
21 ~~or the discharge of an employee who, because of the employee's~~
22 ~~medical condition, is unable to perform the employee's essential~~
23 ~~duties, or cannot perform those duties in a manner that would not~~
24 ~~endanger the employee's health or safety or the health or safety~~
25 ~~of others even with reasonable accommodations.~~

26 ~~(3) Nothing in this part relating to discrimination on account of~~
27 ~~marital status shall do either of the following:~~

28 ~~(A) Affect the right of an employer to reasonably regulate, for~~
29 ~~reasons of supervision, safety, security, or morale, the working of~~
30 ~~spouses in the same department, division, or facility, consistent~~
31 ~~with the rules and regulations adopted by the commission.~~

32 ~~(B) Prohibit bona fide health plans from providing additional~~
33 ~~or greater benefits to employees with dependents than to those~~
34 ~~employees without or with fewer dependents.~~

35 ~~(4) Nothing in this part relating to discrimination on account of~~
36 ~~sex shall affect the right of an employer to use veteran status as a~~
37 ~~factor in employee selection or to give special consideration to~~
38 ~~Vietnam-era veterans.~~

39 ~~(5) (A) This part does not prohibit an employer from refusing~~
40 ~~to employ an individual because of the individual's age if the law~~

1 compels or provides for that refusal. Promotions within the existing
2 staff, hiring or promotion on the basis of experience and training,
3 rehiring on the basis of seniority and prior service with the
4 employer, or hiring under an established recruiting program from
5 high schools, colleges, universities, or trade schools do not, in and
6 of themselves, constitute unlawful employment practices.

7 (B) The provisions of this part relating to discrimination on the
8 basis of age do not prohibit an employer from providing health
9 benefits or health care reimbursement plans to retired persons that
10 are altered, reduced, or eliminated when the person becomes
11 eligible for Medicare health benefits. This subparagraph applies
12 to all retiree health benefit plans and contractual provisions or
13 practices concerning retiree health benefits and health care
14 reimbursement plans in effect on or after January 1, 2011.

15 (b) For a labor organization, because of the race, religious creed,
16 color, national origin, ancestry, physical disability, mental
17 disability, medical condition, genetic information, marital status,
18 sex, gender, gender identity, gender expression, age, sexual
19 orientation, or military and veteran status of any person, to exclude,
20 expel, or restrict from its membership the person, or to provide
21 only second-class or segregated membership or to discriminate
22 against any person because of the race, religious creed, color,
23 national origin, ancestry, physical disability, mental disability,
24 medical condition, genetic information, marital status, sex, gender,
25 gender identity, gender expression, age, sexual orientation, or
26 military and veteran status of the person in the election of officers
27 of the labor organization or in the selection of the labor
28 organization's staff or to discriminate in any way against any of
29 its members or against any employer or against any person
30 employed by an employer.

31 (c) For any person to discriminate against any person in the
32 selection, termination, training, or other terms or treatment of that
33 person in any apprenticeship training program, any other training
34 program leading to employment, an unpaid internship, or another
35 limited duration program to provide unpaid work experience for
36 that person because of the race, religious creed, color, national
37 origin, ancestry, physical disability, mental disability, medical
38 condition, genetic information, marital status, sex, gender, gender
39 identity, gender expression, age, sexual orientation, or military
40 and veteran status of the person discriminated against.

1 ~~(d) For any employer or employment agency to print or circulate~~
2 ~~or cause to be printed or circulated any publication, or to make~~
3 ~~any nonjob-related inquiry of an employee or applicant, either~~
4 ~~verbal or through use of an application form, that expresses,~~
5 ~~directly or indirectly, any limitation, specification, or discrimination~~
6 ~~as to race, religious creed, color, national origin, ancestry, physical~~
7 ~~disability, mental disability, medical condition, genetic information,~~
8 ~~marital status, sex, gender, gender identity, gender expression,~~
9 ~~age, sexual orientation, or military and veteran status, or any intent~~
10 ~~to make any such limitation, specification, or discrimination. This~~
11 ~~part does not prohibit an employer or employment agency from~~
12 ~~inquiring into the age of an applicant, or from specifying age~~
13 ~~limitations, if the law compels or provides for that action.~~

14 ~~(e) (1) Except as provided in paragraph (2) or (3), for any~~
15 ~~employer or employment agency to require any medical or~~
16 ~~psychological examination of an applicant, to make any medical~~
17 ~~or psychological inquiry of an applicant, to make any inquiry~~
18 ~~whether an applicant has a mental disability or physical disability~~
19 ~~or medical condition, or to make any inquiry regarding the nature~~
20 ~~or severity of a physical disability, mental disability, or medical~~
21 ~~condition.~~

22 ~~(2) Notwithstanding paragraph (1), an employer or employment~~
23 ~~agency may inquire into the ability of an applicant to perform~~
24 ~~job-related functions and may respond to an applicant's request~~
25 ~~for reasonable accommodation.~~

26 ~~(3) Notwithstanding paragraph (1), an employer or employment~~
27 ~~agency may require a medical or psychological examination or~~
28 ~~make a medical or psychological inquiry of a job applicant after~~
29 ~~an employment offer has been made but prior to the~~
30 ~~commencement of employment duties, provided that the~~
31 ~~examination or inquiry is job related and consistent with business~~
32 ~~necessity and that all entering employees in the same job~~
33 ~~classification are subject to the same examination or inquiry.~~

34 ~~(f) (1) Except as provided in paragraph (2), for any employer~~
35 ~~or employment agency to require any medical or psychological~~
36 ~~examination of an employee, to make any medical or psychological~~
37 ~~inquiry of an employee, to make any inquiry whether an employee~~
38 ~~has a mental disability, physical disability, or medical condition,~~
39 ~~or to make any inquiry regarding the nature or severity of a physical~~
40 ~~disability, mental disability, or medical condition.~~

1 ~~(2) Notwithstanding paragraph (1), an employer or employment~~
2 ~~agency may require any examinations or inquiries that it can show~~
3 ~~to be job related and consistent with business necessity. An~~
4 ~~employer or employment agency may conduct voluntary medical~~
5 ~~examinations, including voluntary medical histories, which are~~
6 ~~part of an employee health program available to employees at that~~
7 ~~worksite.~~

8 ~~(g) For any employer, labor organization, or employment agency~~
9 ~~to harass, discharge, expel, or otherwise discriminate against any~~
10 ~~person because the person has made a report pursuant to Section~~
11 ~~11161.8 of the Penal Code that prohibits retaliation against hospital~~
12 ~~employees who report suspected patient abuse by health facilities~~
13 ~~or community care facilities.~~

14 ~~(h) For any employer, labor organization, employment agency,~~
15 ~~or person to discharge, expel, or otherwise discriminate against~~
16 ~~any person because the person has opposed any practices forbidden~~
17 ~~under this part or because the person has filed a complaint, testified,~~
18 ~~or assisted in any proceeding under this part.~~

19 ~~(i) For any person to aid, abet, incite, compel, or coerce the~~
20 ~~doing of any of the acts forbidden under this part, or to attempt to~~
21 ~~do so.~~

22 ~~(j) (1) For an employer, labor organization, employment agency,~~
23 ~~apprenticeship training program or any training program leading~~
24 ~~to employment, or any other person, because of race, religious~~
25 ~~creed, color, national origin, ancestry, physical disability, mental~~
26 ~~disability, medical condition, genetic information, marital status,~~
27 ~~sex, gender, gender identity, gender expression, age, sexual~~
28 ~~orientation, or military and veteran status, to harass an employee,~~
29 ~~an applicant, an unpaid intern or volunteer, or a person providing~~
30 ~~services pursuant to a contract. Harassment of an employee, an~~
31 ~~applicant, an unpaid intern or volunteer, or a person providing~~
32 ~~services pursuant to a contract by an employee, other than an agent~~
33 ~~or supervisor, shall be unlawful if the entity, or its agents or~~
34 ~~supervisors, knows or should have known of this conduct and fails~~
35 ~~to take immediate and appropriate corrective action. An employer~~
36 ~~may also be responsible for the acts of nonemployees, with respect~~
37 ~~to harassment of employees, applicants, unpaid interns or~~
38 ~~volunteers, or persons providing services pursuant to a contract in~~
39 ~~the workplace, if the employer, or its agents or supervisors, knows~~
40 ~~or should have known of the conduct and fails to take immediate~~

1 and appropriate corrective action. In reviewing cases involving
2 the acts of nonemployees, the extent of the employer's control and
3 any other legal responsibility that the employer may have with
4 respect to the conduct of those nonemployees shall be considered.
5 An entity shall take all reasonable steps to prevent harassment
6 from occurring. Loss of tangible job benefits shall not be necessary
7 in order to establish harassment.

8 (2) The provisions of this subdivision are declaratory of existing
9 law, except for the new duties imposed on employers with regard
10 to harassment.

11 (3) An employee of an entity subject to this subdivision is
12 personally liable for any harassment prohibited by this section that
13 is perpetrated by the employee, regardless of whether the employer
14 or covered entity knows or should have known of the conduct and
15 fails to take immediate and appropriate corrective action.

16 (4) (A) For purposes of this subdivision only, "employer" means
17 any person regularly employing one or more persons or regularly
18 receiving the services of one or more persons providing services
19 pursuant to a contract, or any person acting as an agent of an
20 employer, directly or indirectly, the state, or any political or civil
21 subdivision of the state, and cities. The definition of "employer"
22 in subdivision (d) of Section 12926 applies to all provisions of this
23 section other than this subdivision.

24 (B) Notwithstanding subparagraph (A), for purposes of this
25 subdivision, "employer" does not include a religious association
26 or corporation not organized for private profit, except as provided
27 in Section 12926.2.

28 (C) For purposes of this subdivision, "harassment" because of
29 sex includes sexual harassment, gender harassment, and harassment
30 based on pregnancy, childbirth, or related medical conditions.
31 Sexually harassing conduct need not be motivated by sexual desire.

32 (5) For purposes of this subdivision, "a person providing services
33 pursuant to a contract" means a person who meets all of the
34 following criteria:

35 (A) The person has the right to control the performance of the
36 contract for services and discretion as to the manner of
37 performance.

38 (B) The person is customarily engaged in an independently
39 established business.

1 (C) The person has control over the time and place the work is
2 performed, supplies the tools and instruments used in the work,
3 and performs work that requires a particular skill not ordinarily
4 used in the course of the employer's work.

5 (6) A client employer is also responsible for the acts of a
6 contracted supervisor with respect to harassment of employees,
7 applicants, unpaid interns or volunteers, or persons providing
8 services pursuant to a contract in the workplace.

9 (A) For purposes of this subdivision, "client employer" means
10 a private business entity, regardless of its form, that obtains workers
11 to perform labor within the usual course of business from a
12 contractor. "Client employer" does not include a business entity
13 with fewer than 25 workers, including those hired directly and
14 those obtained by a contractor, or a business entity with 5 or fewer
15 workers supplied by a contractor.

16 (B) For purposes of this subdivision, "contracted supervisor"
17 means a person providing services pursuant to a contract who
18 supervises one or more employees, applicants, unpaid interns or
19 volunteers, or persons providing services pursuant to a contract.

20 (k) For an employer, labor organization, employment agency,
21 apprenticeship training program, or any training program leading
22 to employment, to fail to take all reasonable steps necessary to
23 prevent discrimination and harassment from occurring.

24 (l) (1) For an employer or other entity covered by this part to
25 refuse to hire or employ a person or to refuse to select a person
26 for a training program leading to employment or to bar or to
27 discharge a person from employment or from a training program
28 leading to employment, or to discriminate against a person in
29 compensation or in terms, conditions, or privileges of employment
30 because of a conflict between the person's religious belief or
31 observance and any employment requirement, unless the employer
32 or other entity covered by this part demonstrates that it has explored
33 any available reasonable alternative means of accommodating the
34 religious belief or observance, including the possibilities of
35 excusing the person from those duties that conflict with the
36 person's religious belief or observance or permitting those duties
37 to be performed at another time or by another person, but is unable
38 to reasonably accommodate the religious belief or observance
39 without undue hardship, as defined in subdivision (u) of Section
40 12926, on the conduct of the business of the employer or other

1 entity covered by this part. Religious belief or observance, as used
2 in this section, includes, but is not limited to, observance of a
3 Sabbath or other religious holy day or days, reasonable time
4 necessary for travel prior and subsequent to a religious observance,
5 and religious dress practice and religious grooming practice as
6 described in subdivision (q) of Section 12926. This subdivision
7 shall also apply to an apprenticeship training program, an unpaid
8 internship, and any other program to provide unpaid experience
9 for a person in the workplace or industry.

10 (2) ~~An accommodation of an individual's religious dress practice~~
11 ~~or religious grooming practice is not reasonable if the~~
12 ~~accommodation requires segregation of the individual from other~~
13 ~~employees or the public.~~

14 (3) ~~An accommodation is not required under this subdivision~~
15 ~~if it would result in a violation of this part or any other law~~
16 ~~prohibiting discrimination or protecting civil rights, including~~
17 ~~subdivision (b) of Section 51 of the Civil Code and Section 11135~~
18 ~~of this code.~~

19 (4) ~~For an employer or other entity covered by this part to, in~~
20 ~~addition to the employee protections provided pursuant to~~
21 ~~subdivision (h), retaliate or otherwise discriminate against a person~~
22 ~~for requesting accommodation under this subdivision, regardless~~
23 ~~of whether the request was granted.~~

24 (m) (1) ~~For an employer or other entity covered by this part to~~
25 ~~fail to make reasonable accommodation for the known physical~~
26 ~~or mental disability of an applicant or employee. Nothing in this~~
27 ~~subdivision or in paragraph (1) or (2) of subdivision (a) shall be~~
28 ~~construed to require an accommodation that is demonstrated by~~
29 ~~the employer or other covered entity to produce undue hardship,~~
30 ~~as defined in subdivision (u) of Section 12926, to its operation.~~

31 (2) ~~For an employer or other entity covered by this part to, in~~
32 ~~addition to the employee protections provided pursuant to~~
33 ~~subdivision (h), retaliate or otherwise discriminate against a person~~
34 ~~for requesting accommodation under this subdivision, regardless~~
35 ~~of whether the request was granted.~~

36 (n) ~~For an employer or other entity covered by this part to fail~~
37 ~~to engage in a timely, good faith, interactive process with the~~
38 ~~employee or applicant to determine effective reasonable~~
39 ~~accommodations, if any, in response to a request for reasonable~~

- 1 accommodation by an employee or applicant with a known physical
2 or mental disability or known medical condition.
3 (o) For an employer or other entity covered by this part, to
4 subject, directly or indirectly, any employee, applicant, or other
5 person to a test for the presence of a genetic characteristic.
6 (p) Nothing in this section shall be interpreted as preventing the
7 ability of employers to identify members of the military or veterans
8 for purposes of awarding a veteran's preference as permitted by
9 law.

O

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Assembly California Legislature



ROBERT RIVAS
ASSEMBLY MEMBER, THIRTIETH DISTRICT

COMMITTEES
AGRICULTURE
APPROPRIATIONS
GOVERNMENTAL ORGANIZATION
LOCAL GOVERNMENT
RULES

May 21, 2020

Honorable Ken Cooley
Chair, Assembly Committee on Rules
State Capitol
Sacramento, CA 95814

RE: Urgency Clause – AB 2043

Dear Chairman Cooley:

I respectfully request that an urgency clause be added to my bill, AB 2043 the Agricultural Employee COVID-19 Health and Safety Act. This bill will direct agricultural employers to immediately implement the health and safety guidance issued by Cal/OSHA, and also directs the Standards Board to adopt standards for COVID-19 infection prevention for agricultural employers. Additionally, AB 2043 directs that a targeted outreach campaign be conducted in both English and Spanish to educate agricultural workers on COVID-19 and the steps they can take to protect themselves against infection.

Due to the ongoing pandemic, it is critical that this bill have an urgency clause so that it can be enacted immediately. We must act swiftly to protect our agricultural employees and our food supply chain. Thank you in advance for your consideration of this request. If you should have any questions or concerns, please contact Barbara Mohondro at barbara.mohondro@asm.ca.gov or 760-500-5586.

Respectfully,

A handwritten signature in blue ink, appearing to read "R. Rivas", with a stylized flourish at the end.

Robert Rivas
Assemblymember, District 30

AMENDED IN ASSEMBLY MAY 6, 2020

AMENDED IN ASSEMBLY MAY 4, 2020

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 2257

Introduced by Assembly ~~Members~~ *Member Gonzalez and Smith*

February 13, 2020

An act to amend Section 2750.3 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 2257, as amended, Gonzalez. Worker classification: employees and independent contractors: occupations: professional services.

Existing law requires a 3-part test, commonly known as the “ABC” test, to determine if workers are employees or independent contractors for purposes of the Labor Code, the Unemployment Insurance Code, and the wage orders of the Industrial Welfare Commission. Under the ABC test, a person providing labor or services for remuneration is considered an employee rather than an independent contractor unless the hiring entity demonstrates that the person is free from the control and direction of the hiring entity in connection with the performance of the work, the person performs work that is outside the usual course of the hiring entity’s business, and the person is customarily engaged in an independently established trade, occupation, or business. Existing law charges the Labor Commissioner with the enforcement of labor laws, including worker classification.

Existing law exempts specified occupations and business relationships from the application of the ABC test described above. Existing law, instead, provides that these exempt relationships are governed by the

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multifactor test previously adopted in the case of S. G. Borello & Sons, Inc. v. Department of Industrial Relations (1989) 48 Cal.3d 341. Existing exemptions include persons providing professional services under specified circumstances, including services provided by still photographers, photojournalists, freelance writers, editors, and newspaper cartoonists who do not license or provide, as applicable, content submissions more than 35 times annually to a putative employer.

This bill would additionally exempt certain occupations in connection with creating, marketing, promoting, or distributing sound recordings or musical compositions.

This bill would also additionally exempt a musician or musical group for the purpose of a single-engagement live performance event, unless one of certain conditions applies. The bill would define terms for the purpose of this exemption.

This bill would delete the existing professional services exemptions for services provided by still photographers, photojournalists, freelance writers, editors, and newspaper cartoonists. The bill would, instead, establish an exemption for services provided by a still photographer, photojournalist, videographer, or photo editor, as defined, who works under a contract that specifies certain terms in advance, as long as the individual providing the services is not replacing an employee performing the same work at the same volume, the individual does not primarily perform the work at the hiring entity's business location, and the individual is not restricted from working for more than one hiring entity. The bill would establish an exemption for services provided to a digital content aggregator, as defined, by a still photographer, photojournalist, videographer, or photo editor. The bill would establish an exemption for services provided by a freelance writer, editor, illustrator, or newspaper cartoonist who works under a contract that specifies certain terms in advance, as long as the individual providing the services is not replacing an employee performing the same work at the same volume, the individual does not primarily perform the work at the hiring entity's business location, and the individual is not restricted from working for more than one hiring entity.

~~Existing law requires a 3-part test, commonly known as the "ABC" test, to determine if workers are employees or independent contractors for purposes of the Labor Code, the Unemployment Insurance Code, and the wage orders of the Industrial Welfare Commission. Under the ABC test, a person providing labor or services for remuneration is considered an employee rather than an independent contractor unless~~

~~the hiring entity demonstrates that the person is free from the control and direction of the hiring entity in connection with the performance of the work, the person performs work that is outside the usual course of the hiring entity's business, and the person is customarily engaged in an independently established trade, occupation, or business. Existing law charges the Labor Commissioner with the enforcement of labor laws, including worker classification.~~

Existing law exempts specified occupations and business relationships from the application of the ABC test described above. Existing law, instead, provides that these exempt relationships are governed by the multifactor test previously adopted in the case of *S. G. Borello & Sons, Inc. v. Department of Industrial Relations* (1989) 48 Cal.3d 341. Existing exemptions include persons providing professional services under specified circumstances, including services provided by still photographers, photojournalists, freelance writers, editors, and newspaper cartoonists who do not license or provide, as applicable, content submissions more than 35 times annually to a putative employer.

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

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

1 SECTION 1. Section 2750.3 of the Labor Code is amended to
2 read:

3 2750.3. (a) (1) For purposes of ~~the provisions of~~ this code
4 and the Unemployment Insurance Code, and for the *purposes of*
5 wage orders of the Industrial Welfare Commission, a person
6 providing labor or services for remuneration shall be considered
7 an employee rather than an independent contractor unless the hiring
8 entity demonstrates that all of the following conditions are satisfied:

9 (A) The person is free from the control and direction of the
10 hiring entity in connection with the performance of the work, both
11 under the contract for the performance of the work and in fact.

12 (B) The person performs work that is outside the usual course
13 of the hiring entity's business.

14 (C) The person is customarily engaged in an independently
15 established trade, occupation, or business of the same nature as
16 that involved in the work performed.

17 (2) Notwithstanding paragraph (1), any exceptions to the terms
18 “employee,” “employer,” “employ,” or “independent contractor,”
19 and any extensions of employer status or liability, that are expressly
20 made by a provision of this code, the Unemployment Insurance
21 Code, or in an applicable order of the Industrial Welfare
22 Commission, including, but not limited to, the definition of
23 “employee” in subdivision 2(E) of Wage Order No. 2, shall remain
24 in effect for the purposes set forth therein.

25 (3) If a court of law rules that the three-part test in paragraph
26 (1) cannot be applied to a particular context based on grounds other
27 than an express exception to employment status as provided under
28 paragraph (2), then the determination of employee or independent
29 contractor status in that context shall instead be governed by the
30 California Supreme Court's decision in *S. G. Borello & Sons, Inc.*
31 v. Department of Industrial Relations (1989) 48 Cal.3d 341
32 (*Borello*).

33 (b) (1) *Subdivision (a) and the holding in Dynamex do not apply*
34 *to the following occupations in connection with creating,*
35 *marketing, promoting, or distributing sound recordings or musical*
36 *compositions, and instead the holding in Borello shall apply to all*
37 *of the following:*

38 (A) *Recording artists, subject to the below.*

1 (B) Songwriters, lyricists, and composers.

2 (C) Managers of recording artists.

3 (D) Record producers.

4 (E) Musical engineers and mixers engaged in the creation of
5 sound recordings.

6 (F) Musicians engaged in the creation of sound recordings,
7 subject to the below.

8 (G) Vocalists, subject to the below.

9 (H) Photographers working on recording photo shoots, album
10 covers, and other press and publicity purposes.

11 (I) Independent radio promoters.

12 (J) Any other individual engaged to render any creative,
13 production, marketing, or independent music publicist services
14 related primarily to the creation, marketing, promotion, or
15 distribution of sound recordings or musical compositions, unless
16 otherwise stated in the terms and conditions of any current or
17 future collective bargaining agreement or agreement between the
18 applicable and respective parties, in which case those terms and
19 conditions shall govern.

20 (2) This subdivision shall not apply to any of the following:

21 (A) Film and television unit production crews working on live
22 or recorded performances for audiovisual works, including still
23 photographers and cinematographers.

24 (B) Publicists who are not independent music publicists.

25 (C) People subject to collective bargaining agreements and
26 those hired by employers signed to collective bargaining
27 agreements.

28 (D) Solely for the purposes of determining a right to organize,
29 those who are deemed to be eligible in an appropriate collective
30 bargaining unit.

31 (3) Notwithstanding subdivision (a), the holding in *Dynamex*,
32 or paragraphs (1) and (2), the terms and conditions of any current
33 or future collective bargaining agreements or agreements between
34 the applicable unions and respective employers shall govern in
35 all events.

36 (4) The following shall apply to recording artists, musicians,
37 and vocalists:

38 (A) Recording artists, musicians, and vocalists shall not be
39 precluded from organizing under applicable provisions of labor

1 law, or otherwise exercising rights granted to employees under
2 the National Labor Relations Act (29 U.S.C. Sec. 151 et seq.).

3 (B) Musicians and vocalists who are not royalty-based
4 participants in the work created during any specific engagement
5 shall be governed by state and local administrative and judicial
6 bodies with respect to minimum wage and overtime requirements
7 related to that engagement, and therefore treated as employees
8 for such purposes under the applicable provisions of this code.

9 (C) In all events, the terms and conditions of any current or
10 future collective bargaining agreements or agreements between
11 the applicable unions and respective employers shall govern.

12 (c) (1) Subdivision (a) and the holding in *Dynamex* do not apply
13 to a musician or musical group for the purpose of a
14 single-engagement live performance event, and instead the
15 determination of employee or independent contractor status shall
16 be governed by Borello, unless one of the following conditions is
17 met:

18 (A) The musical group is performing as a symphony orchestra,
19 the musical group is performing at a theme park or amusement
20 park, or a musician is performing in a musical theater production.

21 (B) The musical group is an event headliner for a performance
22 taking place in a venue location with more than 1,500 attendees.

23 (C) The musical group is performing at a festival that sells more
24 than 18,000 tickets per day.

25 (2) This subdivision is inclusive of rehearsals related to the
26 single-engagement live performance event.

27 (3) As used in this subdivision:

28 (A) “Event headliner” means the musical group that appears
29 most prominently in an event program, advertisement, or on a
30 marquee.

31 (B) “Festival” means a single day or multiday event in a single
32 venue location that occurs once a year, featuring performances
33 by various musical groups.

34 (C) “Musical group” means a solo artist, band, or a group of
35 musicians who perform under a distinct name.

36 (D) “Musical theater production” means a form of theatrical
37 performance that combines songs, spoken dialogue, acting, and
38 dance.

39 (E) “Musician” means an individual performing instrumental,
40 electronic, or vocal music in a live setting.

1 (F) “Single-engagement live performance event” means a
2 stand-alone musical performance in a single venue location, or a
3 series of performances in the same venue location no more than
4 once a week. The performance is not considered a part of a tour
5 or series of live performances at various locations.

6 (G) “Venue location” means an indoor or outdoor location
7 used primarily as a space to hold a concert or musical
8 performance. “Venue location” includes, but is not limited to, a
9 restaurant, bar, or brewery that regularly offers live musical
10 entertainment.

11 ~~(b)~~

12 (d) Subdivision (a) and the holding in *Dynamex Operations*
13 *West, Inc. v. Superior Court of Los Angeles* (2018) 4 Cal.5th 903
14 (*Dynamex*), do not apply to the following occupations as defined
15 in the paragraphs below, and instead, the determination of
16 employee or independent contractor status for individuals in those
17 occupations shall be governed by Borello.

18 (1) A person or organization who is licensed by the Department
19 of Insurance pursuant to Chapter 5 (commencing with Section
20 1621), Chapter 6 (commencing with Section 1760), or Chapter 8
21 (commencing with Section 1831) of Part 2 of Division 1 of the
22 Insurance Code.

23 (2) A physician and surgeon, dentist, podiatrist, psychologist,
24 or veterinarian licensed by the State of California pursuant to
25 Division 2 (commencing with Section 500) of the Business and
26 Professions Code, performing professional or medical services
27 provided to or by a health care entity, including an entity organized
28 as a sole proprietorship, partnership, or professional corporation
29 as defined in Section 13401 of the Corporations Code. Nothing in
30 this subdivision shall apply to the employment settings currently
31 or potentially governed by collective bargaining agreements for
32 the licensees identified in this paragraph.

33 (3) An individual who holds an active license from the State of
34 California and is practicing one of the following recognized
35 professions: lawyer, architect, engineer, private investigator, or
36 accountant.

37 (4) A securities broker-dealer or investment adviser or their
38 agents and representatives that are either of the following:

39 (A) Registered with the Securities and Exchange Commission
40 or the Financial Industry Regulatory Authority.

1 ~~(4) A securities broker-dealer or investment adviser or their~~
2 ~~agents and representatives that are registered with the Securities~~
3 ~~and Exchange Commission or the Financial Industry Regulatory~~
4 ~~Authority or licensed~~

5 (B) *Licensed* by the State of California under Chapter 2
6 (commencing with Section 25210) or Chapter 3 (commencing with
7 Section 25230) of Division 1 of Part 3 of Title 4 of the
8 Corporations Code.

9 (5) A direct sales salesperson as described in Section 650 of the
10 Unemployment Insurance Code, so long as the conditions for
11 exclusion from employment under that section are met.

12 (6) A commercial fisherman working on an American vessel
13 as defined in subparagraph (A) below.

14 (A) For the purposes of this paragraph:

15 (i) “American vessel” has the same meaning as defined in
16 Section 125.5 of the Unemployment Insurance Code.

17 (ii) “Commercial fisherman” means a person who has a valid,
18 unrevoked commercial fishing license issued pursuant to Article
19 3 (commencing with Section 7850) of Chapter 1 of Part 3 of
20 Division 6 of the Fish and Game Code.

21 (iii) “Working on an American vessel” means the taking or the
22 attempt to take fish, shellfish, or other fishery resources of the state
23 by any means, and includes each individual aboard an American
24 vessel operated for fishing purposes who participates directly or
25 indirectly in the taking of these raw fishery products, including
26 maintaining the vessel or equipment used aboard the vessel.
27 However, “working on an American vessel” does not apply to
28 anyone aboard a licensed commercial fishing vessel as a visitor
29 or guest who does not directly or indirectly participate in the taking.

30 (B) For the purposes of this paragraph, a commercial fisherman
31 working on an American vessel is eligible for unemployment
32 insurance benefits if they meet the definition of “employment” in
33 Section 609 of the Unemployment Insurance Code and are
34 otherwise eligible for those benefits pursuant to the provisions of
35 the Unemployment Insurance Code.

36 (C) (i) On or before March 1, 2021, and each March 1
37 thereafter, the Employment Development Department shall issue
38 an annual report to the Legislature on the use of unemployment
39 insurance in the commercial fishing industry. This report shall
40 include, but not be limited to, ~~reporting the number~~ *all* of

1 commercial fishermen who apply for unemployment insurance
2 benefits, the number of commercial fishermen who have their
3 claims disputed, the number of commercial fishermen who have
4 their claims denied, and the number of commercial fishermen who
5 receive unemployment insurance benefits. The report required by
6 this subparagraph shall be submitted in compliance with Section
7 9795 of the Government Code, following:

8 (I) Reporting the number of commercial fishermen who apply
9 for unemployment insurance benefits.

10 (II) The number of commercial fishermen who have their claims
11 disputed.

12 (III) The number of commercial fishermen who have their claims
13 denied.

14 (IV) The number of commercial fishermen who receive
15 unemployment insurance benefits.

16 (ii) The report required by this subparagraph shall be submitted
17 in compliance with Section 9795 of the Government Code.

18 (D) This paragraph shall become inoperative on January 1, 2023,
19 unless extended by the Legislature.

20 (7) A newspaper distributor working under contract with a
21 newspaper publisher, as defined in subparagraph (A), and a
22 newspaper carrier working under contract either with a newspaper
23 publisher or newspaper distributor.

24 (A) For purposes of this paragraph:

25 (i) “Newspaper” means a newspaper of general circulation, as
26 defined in Section 6000 of the Government Code, and any other
27 publication circulated to the community in general as an extension
28 of or substitute for that newspaper’s own publication, whether that
29 publication be designated a “shoppers’ guide,” as a zoned edition,
30 or otherwise.

31 (ii) “Publisher” means the natural or corporate person that
32 manages the newspaper’s business operations, including
33 circulation.

34 (iii) “Newspaper distributor” means a person or entity that
35 contracts with a publisher to distribute newspapers to the
36 community.

37 (iv) “Carrier” means a person who effects physical delivery of
38 the newspaper to the customer or reader.

39 (B) This paragraph shall become inoperative on January 1, 2021,
40 unless extended by the Legislature.

1 ~~(e)~~

2 (e) (1) Subdivision (a) and the holding in *Dynamex* do not
3 apply to a contract for “professional services” as defined below,
4 and instead the determination of whether the individual is an
5 employee or independent contractor shall be governed by *Borello*
6 if the hiring entity demonstrates that all of the following factors
7 are satisfied:

8 (A) The individual maintains a business location, which may
9 include the individual’s residence, that is separate from the hiring
10 entity. Nothing in this subdivision prohibits an individual from
11 choosing to perform services at the location of the hiring entity.

12 (B) If work is performed more than six months after the effective
13 date of this section, the individual has a business license, in
14 addition to any required professional licenses or permits for the
15 individual to practice in their profession.

16 (C) The individual has the ability to set or negotiate their own
17 rates for the services performed.

18 (D) Outside of project completion dates and reasonable business
19 hours, the individual has the ability to set the individual’s own
20 hours.

21 (E) The individual is customarily engaged in the same type of
22 work performed under contract with another hiring entity or holds
23 themselves out to other potential customers as available to perform
24 the same type of work.

25 (F) The individual customarily and regularly exercises discretion
26 and independent judgment in the performance of the services.

27 (2) For purposes of this subdivision:

28 (A) An “individual” includes an individual providing services
29 through a sole proprietorship or other business entity.

30 (B) “Professional services” means services that meet any of the
31 following:

32 (i) Marketing, provided that the contracted work is original and
33 creative in character and the result of which depends primarily on
34 the invention, imagination, or talent of the employee or work that
35 is an essential part of or necessarily incident to any of the
36 contracted work.

37 (ii) Administrator of human resources, provided that the
38 contracted work is predominantly intellectual and varied in
39 character and is of such character that the output produced or the

1 result accomplished cannot be standardized in relation to a given
2 period of time.

3 *(iii) Travel agent services provided by either of the following:*

4 *(I) A person regulated by the Attorney General under Article*
5 *2.6 (commencing with Section 17550) of Chapter 1 of Part 3 of*
6 *Division 7 of the Business and Professions Code.*

7 ~~*(iii) Travel agent services provided by either of the following:*~~
8 ~~*(I) a person regulated by the Attorney General under Article 2.6*~~
9 ~~*(commencing with Section 17550) of Chapter 1 of Part 3 of*~~
10 ~~*Division 7 of the Business and Professions Code, or (II) an*~~

11 *(II) An individual who is a seller of travel within the meaning*
12 *of subdivision (a) of Section 17550.1 of the Business and*
13 *Professions Code and who is exempt from the registration under*
14 *subdivision (g) of Section 17550.20 of the Business and Professions*
15 *Code.*

16 *(iv) Graphic design.*

17 *(v) Grant writer.*

18 *(vi) Fine artist.*

19 *(vii) Services provided by an enrolled agent who is licensed by*
20 *the United States Department of the Treasury to practice before*
21 *the Internal Revenue Service pursuant to Part 10 of Subtitle A of*
22 *Title 31 of the Code of Federal Regulations.*

23 *(viii) Payment processing agent through an independent sales*
24 *organization.*

25 *(ix) (I) Services provided:*

26 ~~*(ix) Services provided*~~

27 *(ia) By a still photographer, photojournalist, videographer, or*
28 *photo editor who works under a contract that specifies in advance*
29 *the rate of pay, intellectual property rights, and obligation to pay*
30 ~~*by a still photographer or photojournalist who do defined time, as*~~
31 ~~*long as the individual providing the services is not license content*~~
32 ~~*submissions to replacing an employee performing the same work*~~
33 ~~*at the same volume, the putative employer individual does not*~~
34 ~~*primarily perform the work at the hiring entity's business location,*~~
35 ~~*and the individual is not restricted from working for more than 35*~~
36 ~~*times per year. one hiring entity. This clause subclause is not*~~
37 ~~*applicable to an individual a still photographer, photojournalist,*~~
38 ~~*videographer, or photo editor who works on motion pictures,*~~
39 ~~*which includes, but is not limited to, projects produced for*~~
40 ~~*theatrical, television, internet streaming for any device, commercial*~~

1 commercial, productions, broadcast news, music videos, and live
2 shows, whether distributed live or recorded for later broadcast,
3 regardless of the distribution platform. For purposes of this clause
4 a “submission” is one or more items or forms of content produced
5 by a still photographer or photojournalist that: (I) pertains to a
6 specific event or specific subject; (II) is provided for in a contract
7 that defines the scope of the work; and (III) is accepted by and
8 licensed to the publication or stock photography company and
9 published or posted. Nothing in this section shall prevent impose
10 limitations on a photographer or artist from displaying their work
11 product for sale.

12 (ib) To a digital content aggregator by a still photographer,
13 photojournalist, videographer, or photo editor.

14 (II) For the purposes of this clause:

15 (ic) “Photo editor” means an individual who performs services
16 ancillary to the creation of digital content, such as retouching,
17 editing, and keywording.

18 (id) “Digital content aggregator” means a licensing
19 intermediary that obtains a license or assignment of copyright
20 from a still photographer, photojournalist, videographer, or photo
21 editor for the purposes of distributing that copyright by way of
22 sublicense or assignment, to the intermediary’s third party end
23 users.

24 (x) ~~Services provided by~~

25 (x) By a freelance writer, editor, *illustrator*, or newspaper
26 cartoonist who does not provide content submissions to the putative
27 employer more than 35 times per year. Items of content produced
28 on works under a recurring basis related to a general topic shall
29 be considered separate submissions for purposes of calculating
30 contract that specifies in advance the 35 times per year. For
31 purposes rate of this clause, a “submission” is one or more items
32 or forms of content pay, intellectual property rights, and obligation
33 to pay by a freelance journalist that: (I) pertains to a specific event
34 or topic; (II) is provided for in a contract that defines the scope of
35 the work; (III) defined time, as long as the individual providing
36 the services is not replacing an employee performing the same
37 work at the same volume, the individual does not primarily perform
38 the work at the hiring entity’s business location, and the individual
39 is accepted by the publication or company and published or posted

1 ~~for sale.~~ *not restricted from working for more than one hiring*
2 *entity.*

3 (xi) Services provided by a licensed esthetician, licensed
4 electrologist, licensed manicurist, licensed barber, or licensed
5 cosmetologist provided that the individual:

6 (I) Sets their own rates, processes their own payments, and is
7 paid directly by clients.

8 (II) Sets their own hours of work and has sole discretion to
9 decide the number of clients and which clients for whom they will
10 provide services.

11 (III) Has their own book of business and schedules their own
12 appointments.

13 (IV) Maintains their own business license for the services
14 offered to clients.

15 (V) If the individual is performing services at the location of
16 the hiring entity, then the individual issues a Form 1099 to the
17 salon or business owner from which they rent their business space.

18 (VI) This subdivision shall become inoperative, with respect to
19 licensed manicurists, on January 1, 2022.

20 ~~(d)~~

21 (f) Subdivision (a) and the holding in *Dynamex* do not apply to
22 the following, which are subject to the Business and Professions
23 Code:

24 (1) A real estate licensee licensed by the State of California
25 pursuant to Division 4 (commencing with Section 10000) of the
26 Business and Professions Code, for whom the determination of
27 employee or independent contractor status shall be governed by
28 subdivision (b) of Section 10032 of the Business and Professions
29 Code. If that section is not applicable, then this determination shall
30 be governed as follows: ~~(A) for purposes of unemployment~~
31 ~~insurance by Section 650 of the Unemployment Insurance Code;~~
32 ~~(B) for purposes of workers compensation by Section 3200 et seq.;~~
33 ~~and (C) for all other purposes in the Labor Code by Borello. The~~
34 ~~statutorily imposed duties of a responsible broker under Section~~
35 ~~10015.1 of the Business and Professions Code are not factors to~~
36 ~~be considered under the Borello test.~~

37 (A) *For purposes of unemployment insurance by Section 650*
38 *of the Unemployment Insurance Code.*

39 (B) *For purposes of workers' compensation by Section 3200 et*
40 *seq.*

1 (C) For all other purposes in the Labor Code by Borello. The
2 statutorily imposed duties of a responsible broker under Section
3 10015.1 of the Business and Professions Code are not factors to
4 be considered under the Borello test.

5 (2) A repossession agency licensed pursuant to Section 7500.2
6 of the Business and Professions Code, for whom the determination
7 of employee or independent contractor status shall be governed
8 by Section 7500.2 of the Business and Professions Code, if the
9 repossession agency is free from the control and direction of the
10 hiring person or entity in connection with the performance of the
11 work, both under the contract for the performance of the work and
12 in fact.

13 ~~(e)~~

14 (g) Subdivision (a) and the holding in Dynamex do not apply
15 to a bona fide business-to-business contracting relationship, as
16 defined below, under the following conditions:

17 (1) If a business entity formed as a sole proprietorship,
18 partnership, limited liability company, limited liability partnership,
19 or corporation (“business service provider”) contracts to provide
20 services to another such business (“contracting business”), the
21 determination of employee or independent contractor status of the
22 business services provider shall be governed by Borello, if the
23 contracting business demonstrates that all of the following criteria
24 are satisfied:

25 (A) The business service provider is free from the control and
26 direction of the contracting business entity in connection with the
27 performance of the work, both under the contract for the
28 performance of the work and in fact.

29 (B) The business service provider is providing services directly
30 to the contracting business rather than to customers of the
31 contracting business.

32 (C) The contract with the business service provider is in writing.

33 (D) If the work is performed in a jurisdiction that requires the
34 business service provider to have a business license or business
35 tax registration, the business service provider has the required
36 business license or business tax registration.

37 (E) The business service provider maintains a business location
38 that is separate from the business or work location of the
39 contracting business.

1 (F) The business service provider is customarily engaged in an
2 independently established business of the same nature as that
3 involved in the work performed.

4 (G) The business service provider actually contracts with other
5 businesses to provide the same or similar services and maintains
6 a clientele without restrictions from the hiring entity.

7 (H) The business service provider advertises and holds itself
8 out to the public as available to provide the same or similar
9 services.

10 (I) The business service provider provides its own tools,
11 vehicles, and equipment to perform the services.

12 (J) The business service provider can negotiate its own rates.

13 (K) Consistent with the nature of the work, the business service
14 provider can set its own hours and location of work.

15 (L) The business service provider is not performing the type of
16 work for which a license from the ~~Contractor's~~ *Contractors'* State
17 License Board is required, pursuant to Chapter 9 (commencing
18 with Section 7000) of Division 3 of the Business and Professions
19 Code.

20 (2) This subdivision does not apply to an individual worker, as
21 opposed to a business entity, who performs labor or services for
22 a contracting business.

23 (3) The determination of whether an individual working for a
24 business service provider is an employee or independent contractor
25 of the business service provider is governed by paragraph (1) of
26 subdivision (a).

27 (4) This subdivision does not alter or supersede any existing
28 rights under Section 2810.3.

29 ~~(f)~~

30 *(h)* Subdivision (a) and the holding in *Dynamex* do not apply
31 to the relationship between a contractor and an individual
32 performing work pursuant to a subcontract in the construction
33 industry, and instead the determination of whether the individual
34 is an employee of the contractor shall be governed by Section
35 2750.5 and by *Borello*, if the contractor demonstrates that all the
36 following criteria are satisfied:

37 (1) The subcontract is in writing.

38 (2) The subcontractor is licensed by the ~~Contractors~~ *Contractors'*
39 State License Board and the work is within the scope of that
40 license.

1 (3) If the subcontractor is domiciled in a jurisdiction that requires
2 the subcontractor to have a business license or business tax
3 registration, the subcontractor has the required business license or
4 business tax registration.

5 (4) The subcontractor maintains a business location that is
6 separate from the business or work location of the contractor.

7 (5) The subcontractor has the authority to hire and to fire other
8 persons to provide or to assist in providing the services.

9 (6) The subcontractor assumes financial responsibility for errors
10 or omissions in labor or services as evidenced by insurance, legally
11 authorized indemnity obligations, performance bonds, or warranties
12 relating to the labor or services being provided.

13 (7) The subcontractor is customarily engaged in an
14 independently established business of the same nature as that
15 involved in the work performed.

16 (8) (A) Paragraph (2) shall not apply to a subcontractor
17 providing construction trucking services for which a contractor's
18 license is not required by Chapter 9 (commencing with Section
19 7000) of Division 3 of the Business and Professions Code, provided
20 that all of the following criteria are satisfied:

21 (i) The subcontractor is a business entity formed as a sole
22 proprietorship, partnership, limited liability company, limited
23 liability partnership, or corporation.

24 (ii) For work performed after January 1, 2020, the subcontractor
25 is registered with the Department of Industrial Relations as a public
26 works contractor pursuant to Section 1725.5, regardless of whether
27 the subcontract involves public work.

28 (iii) The subcontractor utilizes its own employees to perform
29 the construction trucking services, unless the subcontractor is a
30 sole proprietor who operates their own truck to perform the entire
31 subcontract and holds a valid motor carrier permit issued by the
32 Department of Motor Vehicles.

33 (iv) The subcontractor negotiates and contracts with, and is
34 compensated directly by, the licensed contractor.

35 (B) For work performed after January 1, 2020, any business
36 entity that provides construction trucking services to a licensed
37 contractor utilizing more than one truck shall be deemed the
38 employer for all drivers of those trucks.

39 (C) For purposes of this paragraph, "construction trucking
40 services" mean hauling and trucking services provided in the

1 construction industry pursuant to a contract with a licensed
2 contractor utilizing vehicles that require a commercial driver's
3 license to operate or have a gross vehicle weight rating of 26,001
4 or more pounds.

5 (D) This paragraph shall only apply to work performed before
6 January 1, 2022.

7 (E) Nothing in this paragraph prohibits an individual who owns
8 their truck from working as an employee of a trucking company
9 and utilizing that truck in the scope of that employment. An
10 individual employee providing their own truck for use by an
11 employer trucking company shall be reimbursed by the trucking
12 company for the reasonable expense incurred for the use of the
13 ~~employee-owned~~ *employee-owned* truck.

14 ~~(g)~~

15 (i) Subdivision (a) and the holding in *Dynamex* do not apply to
16 the relationship between a referral agency and a service provider,
17 as defined below, under the following conditions:

18 (1) If a business entity formed as a sole proprietor, partnership,
19 limited liability company, limited liability partnership, or
20 corporation ("service provider") provides services to clients through
21 a referral agency, the determination *of* whether the service provider
22 is an employee of the referral agency shall be governed by *Borello*,
23 if the referral agency demonstrates that all of the following criteria
24 are satisfied:

25 (A) The service provider is free from the control and direction
26 of the referral agency in connection with the performance of the
27 work for the client, both as a matter of contract and in fact.

28 (B) If the work for the client is performed in a jurisdiction that
29 requires the service provider to have a business license or business
30 tax registration, the service provider has the required business
31 license or business tax registration.

32 (C) If the work for the client requires the service provider to
33 hold a state contractor's license pursuant to Chapter 9 (commencing
34 with Section 7000) of Division 3 of the Business and Professions
35 Code, the service provider has the required contractor's license.

36 (D) The service provider delivers services to the client under
37 *the* service provider's name, rather than under the name of the
38 referral agency.

39 (E) The service provider provides its own tools and supplies to
40 perform the services.

1 (F) The service provider is customarily engaged in an
2 independently established business of the same nature as that
3 involved in the work performed for the client.

4 (G) The service provider maintains a clientele without any
5 restrictions from the referral agency and the service provider is
6 free to seek work elsewhere, including through a competing agency.

7 (H) The service provider sets its own hours and terms of work
8 and is free to accept or reject clients and contracts.

9 (I) The service provider sets its own rates for services performed,
10 without deduction by the referral agency.

11 (J) The service provider is not penalized in any form for
12 rejecting clients or contracts. This subparagraph does not apply if
13 the service provider accepts a client or contract and then fails to
14 fulfill any of its contractual obligations.

15 (2) For purposes of this subdivision, the following definitions
16 apply:

17 (A) “Animal services” means services related to daytime and
18 nighttime pet care including pet boarding under Section 122380
19 of the Health and Safety Code.

20 (B) “Client” means a person or business that engages a service
21 contractor through a referral agency.

22 (C) “Referral agency” is a business that connects clients with
23 service providers that provide graphic design, photography,
24 tutoring, event planning, minor home repair, moving, home
25 cleaning, errands, furniture assembly, animal services, dog walking,
26 dog grooming, web design, picture hanging, pool cleaning, or yard
27 cleanup.

28 (D) “Referral agency contract” is the agency’s contract with
29 clients and service contractors governing the use of its intermediary
30 services described in subparagraph (C).

31 (E) “Service provider” means a person or business who agrees
32 to the referral agency’s contract and uses the referral agency to
33 connect with clients.

34 (F) “Tutor” means a person who develops and teaches their own
35 curriculum. A “tutor” does not include a person who teaches a
36 curriculum created by a public school or who contracts with a
37 public school through a referral company for purposes of teaching
38 students of a public school.

39 (3) This subdivision does not apply to an individual worker, as
40 opposed to a business entity, who performs services for a client

1 through a referral agency. The determination *of* whether such an
2 individual is an employee of a referral agency is governed by
3 subdivision (a).

4 ~~(h)~~

5 (j) Subdivision (a) and the holding in *Dynamex* do not apply to
6 the relationship between a motor club holding a certificate of
7 authority issued pursuant to Chapter 2 (commencing with Section
8 12160) of Part 5 of Division 2 of the Insurance Code and an
9 individual performing services pursuant to a contract between the
10 motor club and a third party to provide motor club services utilizing
11 the employees and vehicles of the third party and, instead, the
12 determination *of* whether such an individual is an employee of the
13 motor club shall be governed by *Borello*, if the motor club
14 demonstrates that the third party is a separate and independent
15 business from the motor club.

16 ~~(i)~~

17 (k) (1) ~~The addition of subdivision Subdivision (a) to this section~~
18 ~~of the Labor Code by this act~~ does not constitute a change in, but
19 is declaratory of, existing law with regard to wage orders of the
20 Industrial Welfare Commission and violations of ~~the Labor Code~~
21 *this code* relating to wage orders.

22 (2) Insofar as the application of subdivisions (b), (c), (d), (e),
23 (f), (g), ~~(h)~~, ~~(i)~~, and ~~(h)~~ ~~of this section~~ (j) would relieve an employer
24 from liability, those subdivisions shall apply retroactively to
25 existing claims and actions to the maximum extent permitted by
26 law.

27 (3) Except as provided in paragraphs (1) and ~~(2)~~ ~~of (2)~~, this
28 ~~subdivision, the provisions of this section of the Labor Code~~ shall
29 apply to work performed on or after January 1, 2020.

30 ~~(j)~~

31 (l) In addition to any other remedies available, an action for
32 injunctive relief to prevent the continued misclassification of
33 employees as independent contractors may be prosecuted against
34 the putative employer in a court of competent jurisdiction by the
35 Attorney General or by a city attorney of a city having a population
36 in excess of 750,000, or by a city attorney in a city and county or,
37 with the consent of the district attorney, by a city prosecutor in a
38 city having a full-time city prosecutor in the name of the people
39 of the State of California upon their own complaint or upon the
40 complaint of a board, officer, person, corporation, or association.

1 SECTION 1. ~~Section 2750.3 of the Labor Code is amended to~~
2 ~~read:~~

3 ~~2750.3. (a) (1) For purposes of this code and the~~
4 ~~Unemployment Insurance Code, and for the purposes of wage~~
5 ~~orders of the Industrial Welfare Commission, a person providing~~
6 ~~labor or services for remuneration shall be considered an employee~~
7 ~~rather than an independent contractor unless the hiring entity~~
8 ~~demonstrates that all of the following conditions are satisfied:~~

9 ~~(A) The person is free from the control and direction of the~~
10 ~~hiring entity in connection with the performance of the work, both~~
11 ~~under the contract for the performance of the work and in fact.~~

12 ~~(B) The person performs work that is outside the usual course~~
13 ~~of the hiring entity's business.~~

14 ~~(C) The person is customarily engaged in an independently~~
15 ~~established trade, occupation, or business of the same nature as~~
16 ~~that involved in the work performed.~~

17 ~~(2) Notwithstanding paragraph (1), any exceptions to the terms~~
18 ~~"employee," "employer," "employ," or "independent contractor,"~~
19 ~~and any extensions of employer status or liability, that are expressly~~
20 ~~made by a provision of this code, the Unemployment Insurance~~
21 ~~Code, or in an applicable order of the Industrial Welfare~~
22 ~~Commission, including, but not limited to, the definition of~~
23 ~~"employee" in subdivision 2(E) of Wage Order No. 2, shall remain~~
24 ~~in effect for the purposes set forth therein.~~

25 ~~(3) If a court of law rules that the three-part test in paragraph~~
26 ~~(1) cannot be applied to a particular context based on grounds other~~
27 ~~than an express exception to employment status as provided under~~
28 ~~paragraph (2), then the determination of employee or independent~~
29 ~~contractor status in that context shall instead be governed by the~~
30 ~~California Supreme Court's decision in S. G. Borello & Sons, Inc.~~
31 ~~v. Department of Industrial Relations (1989) 48 Cal.3d 341~~
32 ~~(Borello).~~

33 ~~(b) (1) Subdivision (a) and the holding in Dynamex Operations~~
34 ~~W. v. Superior Court (2018) 4 Cal.5th 903 (Dynamex) do not apply~~
35 ~~to the following occupations in connection with creating,~~
36 ~~marketing, promoting, or distributing sound recordings or musical~~
37 ~~compositions, and instead the holding in Borello shall apply to all~~
38 ~~of the following:~~

39 ~~(A) Recording artists, subject to the below.~~

40 ~~(B) Songwriters, lyricists, and composers.~~

1 ~~(C) Managers of recording artists.~~

2 ~~(D) Record producers.~~

3 ~~(E) Musical engineers and mixers engaged in the creation of~~
4 ~~sound recordings.~~

5 ~~(F) Musicians engaged in the creation of sound recordings,~~
6 ~~subject to the below.~~

7 ~~(G) Vocalists, subject to the below.~~

8 ~~(H) Photographers working on recording photo shoots, album~~
9 ~~covers, and other press and publicity purposes.~~

10 ~~(I) Independent radio promoters.~~

11 ~~(J) Any other person engaged to render any creative, production,~~
12 ~~marketing or independent music publicist services related primarily~~
13 ~~to the creation, marketing, promotion, or distribution of sound~~
14 ~~recordings or musical compositions, unless otherwise stated in the~~
15 ~~terms and conditions of any current or future collective bargaining~~
16 ~~agreement or agreement between the applicable and respective~~
17 ~~parties, in which case those terms and conditions shall govern.~~

18 ~~(2) This subdivision shall not apply to any of the following:~~

19 ~~(A) Film and television unit production crews, as such term is~~
20 ~~commonly used in the film and television industries, working on~~
21 ~~live or recorded performances for audiovisual works, including~~
22 ~~still photographers and cinematographers.~~

23 ~~(B) Publicists who are not independent music publicists.~~

24 ~~(C) People subject to collective bargaining agreements and those~~
25 ~~hired by employers signed to collective bargaining agreements.~~

26 ~~(D) Solely for the purposes of determining a right to organize,~~
27 ~~those who are deemed to be eligible in an appropriate collective~~
28 ~~bargaining unit.~~

29 ~~(3) Notwithstanding paragraph (1), the terms and conditions of~~
30 ~~any current or future collective bargaining agreements or~~
31 ~~agreements between the applicable unions and respective employers~~
32 ~~shall govern in all events.~~

33 ~~(4) The following shall apply to royalty-based recording artists,~~
34 ~~musicians, and vocalists:~~

35 ~~(A) Royalty-based recording artists, musicians, vocalists, and~~
36 ~~dancers shall not be precluded from organizing under applicable~~
37 ~~provisions of labor law, or otherwise exercising rights granted to~~
38 ~~employees under the National Labor Relations Act (29 U.S.C. Sec.~~
39 ~~151 et seq.).~~

1 ~~(B) Musicians, vocalists, and dancers who are not royalty~~
2 ~~participants in the work created during any specific engagement~~
3 ~~shall be governed by state and local administrative and judicial~~
4 ~~bodies with respect to any minimum wage and overtime~~
5 ~~underpayments pursuant to the wage and hour requirements related~~
6 ~~to such engagement, and therefore treated as employees for such~~
7 ~~purposes under the applicable provisions of this code.~~

8 ~~(C) In all events, the terms and conditions of any current or~~
9 ~~future collective bargaining agreements or agreements between~~
10 ~~the applicable unions and respective employers shall govern.~~

11 ~~(e) Subdivision (a) and the holding in Dynamex do not apply~~
12 ~~to the following occupations as defined in the paragraphs below;~~
13 ~~and instead, the determination of employee or independent~~
14 ~~contractor status for individuals in those occupations shall be~~
15 ~~governed by Borello.~~

16 ~~(1) A person or organization who is licensed by the Department~~
17 ~~of Insurance pursuant to Chapter 5 (commencing with Section~~
18 ~~1621), Chapter 6 (commencing with Section 1760), or Chapter 8~~
19 ~~(commencing with Section 1831) of Part 2 of Division 1 of the~~
20 ~~Insurance Code.~~

21 ~~(2) A physician and surgeon, dentist, podiatrist, psychologist,~~
22 ~~or veterinarian licensed by the State of California pursuant to~~
23 ~~Division 2 (commencing with Section 500) of the Business and~~
24 ~~Professions Code, performing professional or medical services~~
25 ~~provided to or by a health care entity, including an entity organized~~
26 ~~as a sole proprietorship, partnership, or professional corporation~~
27 ~~as defined in Section 13401 of the Corporations Code. Nothing in~~
28 ~~this subdivision shall apply to the employment settings currently~~
29 ~~or potentially governed by collective bargaining agreements for~~
30 ~~the licensees identified in this paragraph.~~

31 ~~(3) An individual who holds an active license from the State of~~
32 ~~California and is practicing one of the following recognized~~
33 ~~professions: lawyer, architect, engineer, private investigator, or~~
34 ~~accountant.~~

35 ~~(4) A securities broker-dealer or investment adviser or their~~
36 ~~agents and representatives that are either of the following:~~

37 ~~(A) Registered with the Securities and Exchange Commission~~
38 ~~or the Financial Industry Regulatory Authority.~~

39 ~~(B) Licensed by the State of California under Chapter 2~~
40 ~~(commencing with Section 25210) or Chapter 3 (commencing with~~

~~Section 25230) of Division 1 of Part 3 of Title 4 of the Corporations Code.~~

~~(5) A direct sales salesperson as described in Section 650 of the Unemployment Insurance Code, so long as the conditions for exclusion from employment under that section are met.~~

~~(6) A commercial fisherman working on an American vessel as defined in subparagraph (A) below.~~

~~(A) For the purposes of this paragraph:~~

~~(i) "American vessel" has the same meaning as defined in Section 125.5 of the Unemployment Insurance Code.~~

~~(ii) "Commercial fisherman" means a person who has a valid, unrevoked commercial fishing license issued pursuant to Article 3 (commencing with Section 7850) of Chapter 1 of Part 3 of Division 6 of the Fish and Game Code.~~

~~(iii) "Working on an American vessel" means the taking or the attempt to take fish, shellfish, or other fishery resources of the state by any means, and includes each individual aboard an American vessel operated for fishing purposes who participates directly or indirectly in the taking of these raw fishery products, including maintaining the vessel or equipment used aboard the vessel. However, "working on an American vessel" does not apply to anyone aboard a licensed commercial fishing vessel as a visitor or guest who does not directly or indirectly participate in the taking.~~

~~(B) For the purposes of this paragraph, a commercial fisherman working on an American vessel is eligible for unemployment insurance benefits if they meet the definition of "employment" in Section 609 of the Unemployment Insurance Code and are otherwise eligible for those benefits pursuant to the provisions of the Unemployment Insurance Code.~~

~~(C) (i) On or before March 1, 2021, and each March 1 thereafter, the Employment Development Department shall issue an annual report to the Legislature on the use of unemployment insurance in the commercial fishing industry. This report shall include, but not be limited to, all of the following:~~

~~(I) Reporting the number of commercial fishermen who apply for unemployment insurance benefits.~~

~~(II) The number of commercial fishermen who have their claims disputed.~~

~~(III) The number of commercial fishermen who have their claims denied.~~

1 ~~(IV) The number of commercial fishermen who receive~~
2 ~~unemployment insurance benefits.~~

3 ~~(ii) The report required by this subparagraph shall be submitted~~
4 ~~in compliance with Section 9795 of the Government Code.~~

5 ~~(D) This paragraph shall become inoperative on January 1, 2023,~~
6 ~~unless extended by the Legislature.~~

7 ~~(7) A newspaper distributor working under contract with a~~
8 ~~newspaper publisher, as defined in subparagraph (A), and a~~
9 ~~newspaper carrier working under contract either with a newspaper~~
10 ~~publisher or newspaper distributor.~~

11 ~~(A) For purposes of this paragraph:~~

12 ~~(i) "Newspaper" means a newspaper of general circulation, as~~
13 ~~defined in Section 6000 of the Government Code, and any other~~
14 ~~publication circulated to the community in general as an extension~~
15 ~~of or substitute for that newspaper's own publication, whether that~~
16 ~~publication be designated a "shoppers' guide," as a zoned edition,~~
17 ~~or otherwise.~~

18 ~~(ii) "Publisher" means the natural or corporate person that~~
19 ~~manages the newspaper's business operations, including~~
20 ~~circulation.~~

21 ~~(iii) "Newspaper distributor" means a person or entity that~~
22 ~~contracts with a publisher to distribute newspapers to the~~
23 ~~community.~~

24 ~~(iv) "Carrier" means a person who effects physical delivery of~~
25 ~~the newspaper to the customer or reader.~~

26 ~~(B) This paragraph shall become inoperative on January 1, 2021,~~
27 ~~unless extended by the Legislature.~~

28 ~~(d) (1) Subdivision (a) and the holding in Dynamex do not~~
29 ~~apply to a contract for "professional services" as defined below,~~
30 ~~and instead the determination of whether the individual is an~~
31 ~~employee or independent contractor shall be governed by Borello~~
32 ~~if the hiring entity demonstrates that all of the following factors~~
33 ~~are satisfied:~~

34 ~~(A) The individual maintains a business location, which may~~
35 ~~include the individual's residence, that is separate from the hiring~~
36 ~~entity. Nothing in this subdivision prohibits an individual from~~
37 ~~choosing to perform services at the location of the hiring entity.~~

38 ~~(B) If work is performed more than six months after the effective~~
39 ~~date of this section, the individual has a business license, in~~

1 addition to any required professional licenses or permits for the
2 individual to practice in their profession.

3 (C) The individual has the ability to set or negotiate their own
4 rates for the services performed.

5 (D) Outside of project completion dates and reasonable business
6 hours, the individual has the ability to set the individual's own
7 hours.

8 (E) The individual is customarily engaged in the same type of
9 work performed under contract with another hiring entity or holds
10 themselves out to other potential customers as available to perform
11 the same type of work.

12 (F) The individual customarily and regularly exercises discretion
13 and independent judgment in the performance of the services.

14 (2) For purposes of this subdivision:

15 (A) An "individual" includes an individual providing services
16 through a sole proprietorship or other business entity.

17 (B) "Professional services" means services that meet any of the
18 following:

19 (i) Marketing, provided that the contracted work is original and
20 creative in character and the result of which depends primarily on
21 the invention, imagination, or talent of the employee or work that
22 is an essential part of or necessarily incident to any of the
23 contracted work.

24 (ii) Administrator of human resources, provided that the
25 contracted work is predominantly intellectual and varied in
26 character and is of such character that the output produced or the
27 result accomplished cannot be standardized in relation to a given
28 period of time.

29 (iii) Travel agent services provided by either of the following:

30 (I) A person regulated by the Attorney General under Article
31 2.6 (commencing with Section 17550) of Chapter 1 of Part 3 of
32 Division 7 of the Business and Professions Code.

33 (II) An individual who is a seller of travel within the meaning
34 of subdivision (a) of Section 17550.1 of the Business and
35 Professions Code and who is exempt from the registration under
36 subdivision (g) of Section 17550.20 of the Business and Professions
37 Code.

38 (iv) Graphic design.

39 (v) Grant writer.

40 (vi) Fine artist.

1 ~~(vii) Services provided by an enrolled agent who is licensed by~~
2 ~~the United States Department of the Treasury to practice before~~
3 ~~the Internal Revenue Service pursuant to Part 10 of Subtitle A of~~
4 ~~Title 31 of the Code of Federal Regulations.~~

5 ~~(viii) Payment processing agent through an independent sales~~
6 ~~organization.~~

7 ~~(ix) (I) Services provided:~~

8 ~~(ia) By a still photographer, photojournalist, videographer, or~~
9 ~~photo editor who works under a contract that specifies in advance~~
10 ~~the rate of pay, intellectual property rights, and obligation to pay~~
11 ~~by a defined time, as long as the services are not replacing an~~
12 ~~existing employee, the freelancer does not primarily perform the~~
13 ~~work at the hiring entity's business location, and the freelancer is~~
14 ~~not restricted from working for more than one hiring entity. This~~
15 ~~subclause is not applicable to a still photographer, photojournalist,~~
16 ~~videographer, or photo editor who works on motion pictures, which~~
17 ~~includes, but is not limited to, projects produced for theatrical,~~
18 ~~television, internet streaming for any device, commercial,~~
19 ~~productions, broadcast news, music videos, and live shows, whether~~
20 ~~distributed live or recorded for later broadcast, regardless of~~
21 ~~distribution platform. Nothing in this section shall impose~~
22 ~~limitations on a photographer or artist from displaying their work~~
23 ~~product for sale.~~

24 ~~(ib) To a digital content aggregator by a still photographer,~~
25 ~~photojournalist, videographer, or photo editor.~~

26 ~~(II) For the purposes of this clause:~~

27 ~~(ia) "Photo editor" means an individual who performs services~~
28 ~~ancillary to the creation of digital content, such as retouching,~~
29 ~~editing, and keywording.~~

30 ~~(ib) "Digital content aggregator" means a licensing intermediary~~
31 ~~that obtains a license or assignment of copyright from a still~~
32 ~~photographer, photojournalist, videographer, or photo editor for~~
33 ~~the purposes of distributing that copyright by way of sublicense~~
34 ~~or assignment, to the intermediary's third party end users.~~

35 ~~(x) Services provided by a freelance writer, editor, or newspaper~~
36 ~~cartoonist who works under a contract that specifies in advance~~
37 ~~the rate of pay, intellectual property rights, and obligation to pay~~
38 ~~by a defined time, as long as the services are not replacing an~~
39 ~~existing employee, the freelancer does not primarily perform the~~

1 work at the hiring entity's business location, and the freelancer is
2 not restricted from working for more than one hiring entity.

3 (xi) ~~Services provided by a licensed esthetician, licensed~~
4 ~~electrologist, licensed manicurist, licensed barber, or licensed~~
5 ~~cosmetologist provided that the individual:~~

6 (I) ~~Sets their own rates, processes their own payments, and is~~
7 ~~paid directly by clients.~~

8 (II) ~~Sets their own hours of work and has sole discretion to~~
9 ~~decide the number of clients and which clients for whom they will~~
10 ~~provide services.~~

11 (III) ~~Has their own book of business and schedules their own~~
12 ~~appointments.~~

13 (IV) ~~Maintains their own business license for the services~~
14 ~~offered to clients.~~

15 (V) ~~If the individual is performing services at the location of~~
16 ~~the hiring entity, then the individual issues a Form 1099 to the~~
17 ~~salon or business owner from which they rent their business space.~~

18 (VI) ~~This subdivision shall become inoperative, with respect to~~
19 ~~licensed manicurists, on January 1, 2022.~~

20 (e) ~~Subdivision (a) and the holding in Dynamex do not apply~~
21 ~~to the following, which are subject to the Business and Professions~~
22 ~~Code:~~

23 (1) ~~A real estate licensee licensed by the State of California~~
24 ~~pursuant to Division 4 (commencing with Section 10000) of the~~
25 ~~Business and Professions Code, for whom the determination of~~
26 ~~employee or independent contractor status shall be governed by~~
27 ~~subdivision (b) of Section 10032 of the Business and Professions~~
28 ~~Code. If that section is not applicable, then this determination shall~~
29 ~~be governed as follows:~~

30 (A) ~~For purposes of unemployment insurance by Section 650~~
31 ~~of the Unemployment Insurance Code.~~

32 (B) ~~For purposes of workers' compensation by Section 3200 et~~
33 ~~seq.~~

34 (C) ~~For all other purposes in the Labor Code by Borello. The~~
35 ~~statutorily imposed duties of a responsible broker under Section~~
36 ~~10015.1 of the Business and Professions Code are not factors to~~
37 ~~be considered under the Borello test.~~

38 (2) ~~A repossession agency licensed pursuant to Section 7500.2~~
39 ~~of the Business and Professions Code, for whom the determination~~
40 ~~of employee or independent contractor status shall be governed~~

1 by Section 7500.2 of the Business and Professions Code, if the
2 repossession agency is free from the control and direction of the
3 hiring person or entity in connection with the performance of the
4 work, both under the contract for the performance of the work and
5 in fact.

6 (f) Subdivision (a) and the holding in *Dynamex* do not apply to
7 a bona fide business-to-business contracting relationship, as defined
8 below, under the following conditions:

9 (1) If a business entity formed as a sole proprietorship,
10 partnership, limited liability company, limited liability partnership,
11 or corporation (“business service provider”) contracts to provide
12 services to another such business (“contracting business”), the
13 determination of employee or independent contractor status of the
14 business services provider shall be governed by *Borello*, if the
15 contracting business demonstrates that all of the following criteria
16 are satisfied:

17 (A) The business service provider is free from the control and
18 direction of the contracting business entity in connection with the
19 performance of the work, both under the contract for the
20 performance of the work and in fact.

21 (B) The business service provider is providing services directly
22 to the contracting business rather than to customers of the
23 contracting business.

24 (C) The contract with the business service provider is in writing.

25 (D) If the work is performed in a jurisdiction that requires the
26 business service provider to have a business license or business
27 tax registration, the business service provider has the required
28 business license or business tax registration.

29 (E) The business service provider maintains a business location
30 that is separate from the business or work location of the
31 contracting business.

32 (F) The business service provider is customarily engaged in an
33 independently established business of the same nature as that
34 involved in the work performed.

35 (G) The business service provider actually contracts with other
36 businesses to provide the same or similar services and maintains
37 a clientele without restrictions from the hiring entity.

38 (H) The business service provider advertises and holds itself
39 out to the public as available to provide the same or similar
40 services.

1 ~~(I) The business service provider provides its own tools,~~
2 ~~vehicles, and equipment to perform the services.~~

3 ~~(J) The business service provider can negotiate its own rates.~~

4 ~~(K) Consistent with the nature of the work, the business service~~
5 ~~provider can set its own hours and location of work.~~

6 ~~(L) The business service provider is not performing the type of~~
7 ~~work for which a license from the Contractors' State License Board~~
8 ~~is required, pursuant to Chapter 9 (commencing with Section 7000)~~
9 ~~of Division 3 of the Business and Professions Code.~~

10 ~~(2) This subdivision does not apply to an individual worker, as~~
11 ~~opposed to a business entity, who performs labor or services for~~
12 ~~a contracting business.~~

13 ~~(3) The determination of whether an individual working for a~~
14 ~~business service provider is an employee or independent contractor~~
15 ~~of the business service provider is governed by paragraph (1) of~~
16 ~~subdivision (a).~~

17 ~~(4) This subdivision does not alter or supersede any existing~~
18 ~~rights under Section 2810.3.~~

19 ~~(g) Subdivision (a) and the holding in Dynamex do not apply~~
20 ~~to the relationship between a contractor and an individual~~
21 ~~performing work pursuant to a subcontract in the construction~~
22 ~~industry, and instead the determination of whether the individual~~
23 ~~is an employee of the contractor shall be governed by Section~~
24 ~~2750.5 and by Borello, if the contractor demonstrates that all the~~
25 ~~following criteria are satisfied:~~

26 ~~(1) The subcontract is in writing.~~

27 ~~(2) The subcontractor is licensed by the Contractors' State~~
28 ~~License Board and the work is within the scope of that license.~~

29 ~~(3) If the subcontractor is domiciled in a jurisdiction that requires~~
30 ~~the subcontractor to have a business license or business tax~~
31 ~~registration, the subcontractor has the required business license or~~
32 ~~business tax registration.~~

33 ~~(4) The subcontractor maintains a business location that is~~
34 ~~separate from the business or work location of the contractor.~~

35 ~~(5) The subcontractor has the authority to hire and to fire other~~
36 ~~persons to provide or to assist in providing the services.~~

37 ~~(6) The subcontractor assumes financial responsibility for errors~~
38 ~~or omissions in labor or services as evidenced by insurance, legally~~
39 ~~authorized indemnity obligations, performance bonds, or warranties~~
40 ~~relating to the labor or services being provided.~~

1 ~~(7) The subcontractor is customarily engaged in an~~
2 ~~independently established business of the same nature as that~~
3 ~~involved in the work performed.~~

4 ~~(8) (A) Paragraph (2) shall not apply to a subcontractor~~
5 ~~providing construction trucking services for which a contractor's~~
6 ~~license is not required by Chapter 9 (commencing with Section~~
7 ~~7000) of Division 3 of the Business and Professions Code, provided~~
8 ~~that all of the following criteria are satisfied:~~

9 ~~(i) The subcontractor is a business entity formed as a sole~~
10 ~~proprietorship, partnership, limited liability company, limited~~
11 ~~liability partnership, or corporation.~~

12 ~~(ii) For work performed after January 1, 2020, the subcontractor~~
13 ~~is registered with the Department of Industrial Relations as a public~~
14 ~~works contractor pursuant to Section 1725.5, regardless of whether~~
15 ~~the subcontract involves public work.~~

16 ~~(iii) The subcontractor utilizes its own employees to perform~~
17 ~~the construction trucking services, unless the subcontractor is a~~
18 ~~sole proprietor who operates their own truck to perform the entire~~
19 ~~subcontract and holds a valid motor carrier permit issued by the~~
20 ~~Department of Motor Vehicles.~~

21 ~~(iv) The subcontractor negotiates and contracts with, and is~~
22 ~~compensated directly by, the licensed contractor.~~

23 ~~(B) For work performed after January 1, 2020, any business~~
24 ~~entity that provides construction trucking services to a licensed~~
25 ~~contractor utilizing more than one truck shall be deemed the~~
26 ~~employer for all drivers of those trucks.~~

27 ~~(C) For purposes of this paragraph, "construction trucking~~
28 ~~services" mean hauling and trucking services provided in the~~
29 ~~construction industry pursuant to a contract with a licensed~~
30 ~~contractor utilizing vehicles that require a commercial driver's~~
31 ~~license to operate or have a gross vehicle weight rating of 26,001~~
32 ~~or more pounds.~~

33 ~~(D) This paragraph shall only apply to work performed before~~
34 ~~January 1, 2022.~~

35 ~~(E) Nothing in this paragraph prohibits an individual who owns~~
36 ~~their truck from working as an employee of a trucking company~~
37 ~~and utilizing that truck in the scope of that employment. An~~
38 ~~individual employee providing their own truck for use by an~~
39 ~~employer trucking company shall be reimbursed by the trucking~~

1 company for the reasonable expense incurred for the use of the
2 employee-owned truck.

3 (h) Subdivision (a) and the holding in *Dynamex* do not apply
4 to the relationship between a referral agency and a service provider,
5 as defined below, under the following conditions:

6 (1) If a business entity formed as a sole proprietor, partnership,
7 limited liability company, limited liability partnership, or
8 corporation (“service provider”) provides services to clients through
9 a referral agency, the determination of whether the service provider
10 is an employee of the referral agency shall be governed by *Borello*,
11 if the referral agency demonstrates that all of the following criteria
12 are satisfied:

13 (A) The service provider is free from the control and direction
14 of the referral agency in connection with the performance of the
15 work for the client, both as a matter of contract and in fact.

16 (B) If the work for the client is performed in a jurisdiction that
17 requires the service provider to have a business license or business
18 tax registration, the service provider has the required business
19 license or business tax registration.

20 (C) If the work for the client requires the service provider to
21 hold a state contractor’s license pursuant to Chapter 9 (commencing
22 with Section 7000) of Division 3 of the Business and Professions
23 Code, the service provider has the required contractor’s license.

24 (D) The service provider delivers services to the client under
25 the service provider’s name, rather than under the name of the
26 referral agency.

27 (E) The service provider provides its own tools and supplies to
28 perform the services.

29 (F) The service provider is customarily engaged in an
30 independently established business of the same nature as that
31 involved in the work performed for the client.

32 (G) The service provider maintains a clientele without any
33 restrictions from the referral agency and the service provider is
34 free to seek work elsewhere, including through a competing agency.

35 (H) The service provider sets its own hours and terms of work
36 and is free to accept or reject clients and contracts.

37 (I) The service provider sets its own rates for services performed,
38 without deduction by the referral agency.

39 (J) The service provider is not penalized in any form for
40 rejecting clients or contracts. This subparagraph does not apply if

1 the service provider accepts a client or contract and then fails to
2 fulfill any of its contractual obligations.

3 (2) For purposes of this subdivision, the following definitions
4 apply:

5 (A) “Animal services” means services related to daytime and
6 nighttime pet care including pet boarding under Section 122380
7 of the Health and Safety Code.

8 (B) “Client” means a person or business that engages a service
9 contractor through a referral agency.

10 (C) “Referral agency” is a business that connects clients with
11 service providers that provide graphic design, photography,
12 tutoring, event planning, minor home repair, moving, home
13 cleaning, errands, furniture assembly, animal services, dog walking,
14 dog grooming, web design, picture hanging, pool cleaning, or yard
15 cleanup.

16 (D) “Referral agency contract” is the agency’s contract with
17 clients and service contractors governing the use of its intermediary
18 services described in subparagraph (C).

19 (E) “Service provider” means a person or business who agrees
20 to the referral agency’s contract and uses the referral agency to
21 connect with clients.

22 (F) “Tutor” means a person who develops and teaches their own
23 curriculum. A “tutor” does not include a person who teaches a
24 curriculum created by a public school or who contracts with a
25 public school through a referral company for purposes of teaching
26 students of a public school.

27 (3) This subdivision does not apply to an individual worker, as
28 opposed to a business entity, who performs services for a client
29 through a referral agency. The determination of whether such an
30 individual is an employee of a referral agency is governed by
31 subdivision (a).

32 (i) Subdivision (a) and the holding in *Dynamex* do not apply to
33 the relationship between a motor club holding a certificate of
34 authority issued pursuant to Chapter 2 (commencing with Section
35 12160) of Part 5 of Division 2 of the Insurance Code and an
36 individual performing services pursuant to a contract between the
37 motor club and a third party to provide motor club services utilizing
38 the employees and vehicles of the third party and, instead, the
39 determination of whether such an individual is an employee of the
40 motor club shall be governed by *Borello*, if the motor club

1 demonstrates that the third party is a separate and independent
2 business from the motor club.

3 (j) (1) Subdivision (a) does not constitute a change in, but is
4 declaratory of, existing law with regard to wage orders of the
5 Industrial Welfare Commission and violations of this code relating
6 to wage orders.

7 (2) Insofar as the application of subdivisions (b), (c), (d), (e),
8 (f), (g), (h), and (i) would relieve an employer from liability, those
9 subdivisions shall apply retroactively to existing claims and actions
10 to the maximum extent permitted by law.

11 (3) Except as provided in paragraphs (1) and (2), this section
12 shall apply to work performed on or after January 1, 2020.

13 (k) In addition to any other remedies available, an action for
14 injunctive relief to prevent the continued misclassification of
15 employees as independent contractors may be prosecuted against
16 the putative employer in a court of competent jurisdiction by the
17 Attorney General or by a city attorney of a city having a population
18 in excess of 750,000, or by a city attorney in a city and county or,
19 with the consent of the district attorney, by a city prosecutor in a
20 city having a full-time city prosecutor in the name of the people
21 of the State of California upon their own complaint or upon the
22 complaint of a board, officer, person, corporation, or association.

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Assembly California Legislature



LORENA GONZALEZ

ASSEMBLYWOMAN, EIGHTIETH DISTRICT

CHAIR, CALIFORNIA LATINO LEGISLATIVE
CAUCUS

CHAIR, ASSEMBLY APPROPRIATIONS
COMMITTEE

CHAIR, ASSEMBLY SELECT COMMITTEE ON
WOMEN IN THE WORKPLACE

May 22, 2020

Ken Cooley, Chair
Assembly Rules Committee
State Capitol Room 3016
Sacramento, CA 95814

Dear Mr. Chair,

I am writing to request the Assembly Rules Committee's approval for the addition of an urgency clause to AB 2257, which has currently been referred to the Assembly Appropriations Committee.

This measure clarifies the impact of the California Supreme Court's 2018 *Dynamex* decision and the application of AB 5 to musicians, various professionals in the music recording industry, writers, photographers, videographers, photo editors, and illustrators. The legislation is a product of nearly two years of stakeholder conversations and has broad support from representatives in the impacted industries.

The COVID-19 pandemic has led to millions of Californians facing significant disruption to their daily lives and unprecedented levels of unemployment. AB 2257 will add immediate clarity regarding the specific classification standards for these professions and provide certainty to individuals who are able to continue working remotely during the COVID-19 crisis, as well as individuals who will eventually be able to perform in venues as the state transitions towards a gradual and safe reopening of the economy.

Thank you for your consideration. If you have any questions, please do not hesitate to contact my staff Shubhangi Domokos at (916) 934-6963.

Sincerely,

LORENA GONZALEZ
Assemblywoman, 80th District

AMENDED IN ASSEMBLY MAY 12, 2020

AMENDED IN ASSEMBLY MAY 4, 2020

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 2450

Introduced by Assembly Member Grayson

February 19, 2020

An act to ~~add Section 14124.16 to the Welfare and Institutions~~ *amend Section 76000.10 of the Government Code*, relating to air ambulance services.

LEGISLATIVE COUNSEL’S DIGEST

AB 2450, as amended, Grayson. Air ambulance services.

Existing law, until July 1, 2022, imposes a penalty of \$4 until July 1, 2020, upon every conviction for a violation of the Vehicle Code or a local ordinance adopted pursuant to the Vehicle Code, other than a parking offense. The act requires the county or court that imposed the fine to transfer the revenues collected to the Treasurer for deposit into the Emergency Medical Air Transportation and Children’s Coverage Fund. Existing law requires the assessed penalty to continue to be collected, administered, and distributed until exhausted or until December 30, 2021, whichever occurs first.

This bill would extend the above-specified dates by 2 years. By extending the length of time a county is required to collect and transfer the fines imposed, 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.

~~Existing law establishes the Medi-Cal program, which is administered by the State Department of Health Care Services and under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid program provisions. Existing law authorizes an eligible provider to receive increased reimbursement, by application of an add-on increase to the associated Medi-Cal fee-for-service payment schedule, for emergency medical transports provided to applicable Medi-Cal beneficiaries, but excludes air ambulances from that increased reimbursement.~~

~~This bill would require the department to set and maintain supplemental Medi-Cal payments for air ambulance services provided by fixed or rotary wing aircraft according to a specified payment schedule. The bill would limit the amounts a noncontracting emergency medical transport provider may collect if the beneficiary received medical assistance other than through enrollment in a Medi-Cal managed care health plan to the sum of the supplemental payments and existing fee-for-service payment schedule amounts after the application of the bill's specified supplemental Medi-Cal payment schedule.~~

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

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

1 SECTION 1. Section 76000.10 of the Government Code is
2 amended to read:

3 76000.10. (a) This section shall be known, and may be cited,
4 as the Emergency Medical Air Transportation Act.

5 (b) For purposes of this section:

6 (1) "Department" means the State Department of Health Care
7 Services.

8 (2) "Director" means the Director of Health Care Services.

9 (3) "Provider" means a provider of emergency medical air
10 transportation services.

1 (4) “Rotary wing” means a type of aircraft, commonly referred
2 to as a helicopter, that generates lift through the use of wings,
3 known as rotor blades, that revolve around a mast.

4 (5) “Fixed wing” means a type of aircraft, commonly referred
5 to as an airplane, that generates lift through the use of the forward
6 motion of the aircraft and wings that do not revolve around a mast
7 but are fixed in relation to the fuselage of the aircraft.

8 (6) “Air mileage rate” means the per-mileage reimbursement
9 rate paid for services rendered by rotary-wing and fixed-wing
10 providers.

11 (c) (1) For purposes of implementing this section, a penalty of
12 four dollars (\$4) shall be imposed upon every conviction for a
13 violation of the Vehicle Code or a local ordinance adopted pursuant
14 to the Vehicle Code, except parking offenses subject to Article 3
15 (commencing with Section 40200) of Chapter 1 of Division 17 of
16 the Vehicle Code.

17 (2) The penalty described in this subdivision is in addition to
18 the state penalty assessed pursuant to Section 1464 of the Penal
19 Code. However, this penalty shall not be included in the base fine
20 used to calculate the state penalty assessment pursuant to
21 subdivision (a) of Section 1464 of the Penal Code, the state
22 surcharge levied pursuant to Section 1465.7 of the Penal Code,
23 and the state court construction penalty pursuant to Section 70372
24 of this code, and to calculate the other additional penalties levied
25 pursuant to this chapter.

26 (d) The county or the court that imposed the fine shall, in
27 accordance with the procedures set out in Section 68101, transfer
28 moneys collected pursuant to this section to the Treasurer for
29 deposit into the Emergency Medical Air Transportation and
30 Children’s Coverage Fund, which is hereby established in the State
31 Treasury. Notwithstanding Section 16305.7, the Emergency
32 Medical Air Transportation and Children’s Coverage Fund shall
33 include interest and dividends earned on money in the fund. Any
34 law that references the Emergency Medical Air Transportation
35 Act Fund, as previously established by this subdivision, shall be
36 construed to reference the Emergency Medical Air Transportation
37 and Children’s Coverage Fund, effective January 1, 2018.

38 (e) (1) The Emergency Medical Air Transportation and
39 Children’s Coverage Fund shall be administered by the State
40 Department of Health Care Services. Moneys in the Emergency

1 Medical Air Transportation and Children's Coverage Fund shall
2 be made available, upon appropriation by the Legislature, to the
3 department for any of the following purposes:

4 (A) For children's health care coverage.

5 (B) For emergency medical air transportation provider payments,
6 as follows:

7 (i) For payment of the administrative costs of the department
8 in administering emergency medical air transportation provider
9 payments.

10 (ii) Twenty percent of the appropriated money remaining after
11 payment of administrative costs pursuant to clause (i) shall be used
12 to offset the state portion of the Medi-Cal reimbursement rate for
13 emergency medical air transportation services.

14 (iii) Eighty percent of the appropriated money remaining after
15 payment of administrative costs pursuant to clause (i) shall be used
16 to augment emergency medical air transportation reimbursement
17 payments made through the Medi-Cal program, as set forth in
18 paragraphs (2) and (3).

19 (2) If money in the Emergency Medical Air Transportation and
20 Children's Coverage Fund is made available to the department for
21 the purpose described in subparagraph (B) of paragraph (1), both
22 of the following shall occur:

23 (A) The department shall seek to obtain federal matching funds
24 by using the moneys in the Emergency Medical Air Transportation
25 and Children's Coverage Fund for the purpose of augmenting
26 Medi-Cal reimbursement paid to emergency medical air
27 transportation providers.

28 (B) The director shall augment emergency medical air
29 transportation provider payments in accordance with a federally
30 approved reimbursement methodology. The director may seek
31 federal approvals or waivers as may be necessary to implement
32 this section and to obtain federal financial participation to the
33 maximum extent possible for the payments under this section.

34 (3) (A) Upon appropriation by the Legislature, the department
35 shall use moneys in the Emergency Medical Air Transportation
36 and Children's Coverage Fund and any federal matching funds to
37 do any of the following:

38 (i) Fund children's health care coverage.

1 (ii) Increase the Medi-Cal reimbursement for emergency medical
2 air transportation services in an amount not to exceed normal and
3 customary charges charged by the providers.

4 (B) Notwithstanding any other law, and pursuant to this section,
5 if money in the Emergency Medical Air Transportation and
6 Children's Coverage Fund is made available to the department for
7 the purpose described in subparagraph (B) of paragraph (1), the
8 department shall increase the Medi-Cal reimbursement for
9 emergency medical air transportation services if both of the
10 following conditions are met:

11 (i) Moneys in the Emergency Medical Air Transportation and
12 Children's Coverage Fund will cover the cost of increased
13 payments pursuant to clause (iii) of subparagraph (B) of paragraph
14 (1).

15 (ii) The state does not incur any General Fund expense to pay
16 for the Medi-Cal emergency medical air transportation services
17 increase.

18 (f) The assessment of penalties pursuant to this section shall
19 terminate on July 1, ~~2020~~ 2022. Penalties assessed before July 1,
20 ~~2020~~ 2022, shall continue to be collected, administered, and
21 distributed pursuant to this section until exhausted or until
22 December 31, ~~2021~~ 2023, whichever occurs first. On December
23 31, ~~2021~~ 2023, moneys remaining unexpended and unencumbered
24 in the Emergency Medical Air Transportation and Children's
25 Coverage Fund shall be transferred to the General Fund, to be
26 available, upon appropriation by the Legislature, for the purposes
27 of augmenting Medi-Cal reimbursement for emergency medical
28 air transportation and related costs, generally, or funding children's
29 health care coverage.

30 (g) Notwithstanding the rulemaking provisions of Chapter 3.5
31 (commencing with Section 11340) of Part 1 of Division 3 of Title
32 2, the department may implement, interpret, or make specific this
33 section and any applicable federal waivers and state plan
34 amendments by means of all-county letters, plan letters, plan or
35 provider bulletins, or similar instructions without taking regulatory
36 action.

37 ~~(h) This section shall remain in effect only until July 1, 2022,~~
38 ~~and as of that date is repealed.~~

39 *(h) This section shall become inoperative on July 1, 2024, and,*
40 *as of January 1, 2025, is repealed.*

SEC. 2. 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.

~~SECTION 1. Section 14124.16 is added to the Welfare and Institutions Code, to read:~~

~~14124.16. (a) The department shall set and maintain supplemental Medi-Cal payments for air ambulance services provided by fixed or rotary wing aircraft as follows for the following common procedure terminology (CPT) codes:~~

A0431	Rotary Wing Transport	\$4,022.22
A0436	Rotary Wing Air Mileage	\$17.57
A0430	Fixed Wing Air Transport	\$3,705.40
A0435	Fixed Wing Air Mileage	\$0.45

~~(b) Each applicable Medi-Cal managed care health plan shall satisfy its obligation under Section 438.114(e) of Title 42 of the Code of Federal Regulations for emergency medical transports and shall provide payment to noncontracting emergency medical transport providers consistent with Section 1396u-2(b)(2)(D) of Title 42 of the United States Code. Commencing in the fiscal year beginning July 1, 2020, and for each state fiscal year thereafter for which this section is operative, the amounts a noncontracting emergency medical transport provider may collect if the beneficiary received medical assistance other than through enrollment in a Medi-Cal managed care health plan pursuant to Section 1396u-2(b)(2)(D) of Title 42 of the United States Code shall be the sum of the supplemental payments and existing fee-for-service payment schedule amounts after the application of this section.~~

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May 20, 2020

Honorable Ken Cooley
Chair, Assembly Committee on Rules
State Capitol, Room 3016
Sacramento, CA 95814

RE: Request to add an urgency clause to AB 2450 (Grayson)

Dear Chair Cooley,

I respectfully request that the Rules Committee approve the addition of an urgency clause to AB 2450. AB 2450 extends the existing Emergency Medical Air Transportation Act (EMATA) to continue to supplement air ambulance providers until July 1, 2022 at current reimbursement rates. An urgency clause is needed because without action, the penalty and funding stream will expire on July 1, 2020, resulting in a net decrease of Medi-Cal Fee For Service (FFS) funding by more than 50%. Inclusion of the urgency clause will ensure the fee continues to be collected during the six month period between when the fee sunsets and the January 1, 2021 effective date of this bill.

As with other emergency healthcare providers, the COVID-19 crisis has placed an additional economic strain on providers. A reduction of net Medi-Cal funding at this time, would undoubtedly place the economic viability of many emergency helicopter bases at risk of closing.

If you have any questions, please contact me or my Legislative Director, Domonique Jones, at (916) 319-2014.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Timothy S. Grayson". The signature is written in a cursive, flowing style.

Timothy S. Grayson
Assemblymember, 14th District

ASSEMBLY BILL

No. 2932

Introduced by Assembly Member O'Donnell

February 21, 2020

An act to add Section 22162.9 to the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 2932, as introduced, O'Donnell. City of Long Beach: design-build process.

Existing law authorizes, until January 1, 2025, local agencies, as defined, to use the design-build contracting process for specified public works.

This bill would authorize the City of Long Beach, upon approval of the city council of the City of Long Beach, to use the design-build contracting process for its contracts for curb ramps that are compliant with the Americans with Disabilities Act, in accordance with specified procedural requirements and limits.

The bill would make legislative findings and declarations as to the necessity of a special statute for the City of Long Beach.

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

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

- 1 SECTION 1. Section 22162.9 is added to the Public Contract
- 2 Code, to read:
- 3 22162.9. (a) Upon approval of the city council of the City of
- 4 Long Beach, the City of Long Beach may use the design-build

1 contracting process described in this chapter to award contracts
2 for curb ramps that are compliant with the Americans with
3 Disabilities Act.

4 (b) In addition to the requirements set forth in Section 22164,
5 for a project authorized under subdivision (a), the city and city
6 employees in the City of Long Beach Public Works Department
7 may perform project development services, including performance
8 specifications, preliminary engineering, procurement services and
9 the preparation of project reports, and construction inspection
10 services, excluding specialty bridge inspectors. The city shall also
11 be the responsible agency for, and city employees in the Public
12 Works Department may perform, the preparation of documents
13 that may include, but need not be limited to, the size, type, and
14 desired design character of the project, performance specifications
15 covering quality of materials, equipment, and workmanship,
16 preliminary plans, and any other information deemed necessary
17 to describe adequately the needs of the city.

18 (c) For a project authorized under subdivision (a), the city shall
19 be limited to no more than 3,000 ramps, with the total cost not to
20 exceed twenty million dollars (\$20,000,000) per year, and subject
21 to completion prior to January 1, 2025.

22 SEC. 2. The Legislature finds and declares that a special statute
23 is necessary and that a general statute cannot be made applicable
24 within the meaning of Section 16 of Article IV of the California
25 Constitution because of the unique conditions in City of Long
26 Beach that make it necessary to grant the City of Long Beach and
27 the City of Long Beach Public Works Department the authority
28 to use the specific design-build procurement process described in
29 this act.

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BUDGET SUBCOMMITTEE NO. 2 ON
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Assembly
California Legislature



PATRICK O'DONNELL
ASSEMBLYMEMBER, SEVENTIETH DISTRICT

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March 11, 2020

Assemblymember Ken Cooley
Chair, Assembly Rules Committee
State Capitol, Room 3016
Sacramento, CA 95814

Re: AB 2932 (O'Donnell) Urgency Clause

Dear Assemblymember Cooley:

I request approval to add an urgency clause to AB 2932 which authorizes the City of Long Beach to utilize the design build contracting method. The bill has been referred to the Local Government Committee.

The urgency clause is necessary to enable the City of Long Beach to upgrade curbs and sidewalks to ensure accessibility for people with disabilities as soon as possible. Under a settlement agreement, the City of Long Beach agreed to complete 3000 sidewalk upgrades by January 2023. This bill allows the City to streamline the contracting process to expedite the bidding and construction processes.

Please contact my chief of staff, Sophia Kwong Kim, at (916) 319-2070 should you have any questions. Thank you for your consideration.

Sincerely,

Patrick O'Donnell
70th District

AMENDED IN ASSEMBLY MAY 18, 2020

AMENDED IN ASSEMBLY MAY 4, 2020

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 3256

**Introduced by Assembly Members Eduardo Garcia, Bloom, Bonta,
Friedman, Cristina Garcia, Mullin, Reyes, and Wood
(Coauthors: Assembly Members Eggman and Robert Rivas)**

February 21, 2020

An act to add Division 47 (commencing with Section 80200) to the Public Resources Code, relating to ~~a an economic recovery~~, wildfire prevention, safe drinking water, ~~climate resilience~~, drought preparation, and flood protection program, by providing the funds necessary therefor through an election of the issuance and sale of bonds of the State of California and for the handling and disposition of those funds.

LEGISLATIVE COUNSEL'S DIGEST

AB 3256, as amended, Eduardo Garcia. *Economic Recovery*, Wildfire Prevention, Safe Drinking Water, ~~Climate Resilience~~, Drought Preparation, and Flood Protection Bond Act of 2020.

The California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access For All Act of 2018, approved by the voters as Proposition 68 at the June 5, 2018, statewide direct primary election, authorizes the issuance of bonds in the amount of \$4,000,000,000 pursuant to the State General Obligation Bond Law to finance a drought, water, parks, climate, coastal protection, and outdoor access for all program.

This bill would enact the *Economic Recovery*, Wildfire Prevention, Safe Drinking Water, ~~Climate Resilience~~, Drought Preparation, and

97

Flood Protection Bond Act of 2020, which, if approved by the voters, would authorize the issuance of bonds in the amount of \$6,980,000,000 pursuant to the State General Obligation Bond Law to finance projects for ~~a an economic recovery~~, wildfire prevention, safe drinking water, ~~climate resilience~~, drought preparation, and flood protection program.

This bill would provide for the submission of these provisions to the voters at the November 3, 2020, statewide general election.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

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

1 SECTION 1. The people of California find and declare all of
2 the following:

3 (a) The climate crisis presents a significant threat to the health,
4 safety, and prosperity of the people of California. The changing
5 climate increases the risk of extreme weather events, biodiversity
6 loss, catastrophic wildfire, and sea level rise, resulting in harm to
7 California's agricultural industry, water supply, unique ecosystems,
8 and economy.

9 (b) According to the state's Fourth Climate Change Assessment,
10 "[e]merging findings for California show that costs associated with
11 direct climate impacts by 2050 are dominated by human mortality,
12 damages to coastal properties, and the potential for droughts and
13 mega-floods."

14 (c) Improving climate resiliency will require investments in
15 planning and both capital- and non-capital costs.

16 (d) Strategic restoration and stewardship of California's natural
17 infrastructure will increase the state's resilience to the changing
18 climate and can prevent or reduce many of the forecasted impacts
19 of climate change.

20 (e) State investments to improve climate resiliency must reflect
21 the varying type and severity of climate impacts across the state.
22 Already vulnerable communities often face greater risks from
23 climate change.

24 (f) Planning, investment, and action to address current and future
25 climate change impacts must be guided by the best available
26 science, including local and traditional knowledge.

27 (g) Investment in transformative, cost-effective, and
28 evidence-based projects that increase the state's resilience to

1 climate change will protect the lives of all Californians, conserve
2 our unique ecosystems, and save billions of dollars by preventing
3 or reducing damage that may otherwise occur.

4 *(h) Climate risks and impacts vary by region and can overwhelm*
5 *the resources of local governments and communities that must*
6 *cope with changing conditions and severe climate change-related*
7 *events.*

8 *(i) An integrated statewide investment that prevents wildfires*
9 *and other natural disasters, reduces near-term climate change*
10 *risks, and increases long-term resilience to climate change will*
11 *save local and state agencies and California residents billions of*
12 *dollars by preventing or reducing the amount of damage that would*
13 *otherwise occur.*

14 *(j) The investment of public funds pursuant to Division 47*
15 *(commencing with Section 80200) of the Public Resources Code*
16 *will result in public benefits that will address the most critical*
17 *statewide needs and priorities for public funding while saving*
18 *local and state agencies billions of dollars.*

19 SEC. 2. Division 47 (commencing with Section 80200) is added
20 to the Public Resources Code, to read:

21
22 DIVISION 47. *ECONOMIC RECOVERY, WILDFIRE*
23 *PREVENTION, SAFE DRINKING WATER, ~~CLIMATE~~*
24 *RESILIENCE, DROUGHT PREPARATION, AND FLOOD*
25 *PROTECTION BOND ACT OF 2020*
26

27 CHAPTER 1. GENERAL PROVISIONS
28

29 80200. This division shall be known, and may be cited, as the
30 *Economic Recovery, Wildfire Prevention, Safe Drinking Water,*
31 *~~Climate Resilience,~~ Drought Preparation, and Flood Protection*
32 *Bond Act of 2020.*

33 80201. (a) In expending funds pursuant to this division, an
34 administering state agency shall give priority to projects that
35 leverage private, federal, and local funding or produce the greatest
36 public benefit.

37 (b) A project funded pursuant to this division shall include
38 signage informing the public that the project received funding from
39 the *Economic Recovery, Wildfire Prevention, Safe Drinking Water,*

~~Climate Resilience~~, Drought Preparation, and Flood Protection Bond Act of 2020.

80202. For purposes of this division, the following definitions apply:

(a) “Air board” means the State Air Resources Board.

(b) “Committee” means the *Economic Recovery*, Wildfire Prevention, Safe Drinking Water, ~~Climate Resilience~~, Drought Preparation, and Flood Protection Bond Finance Committee created pursuant to Section 80282.

(c) “Fund” means the *Economic Recovery*, Wildfire Prevention, Safe Drinking Water, ~~Climate Resilience~~, Drought Preparation, and Flood Protection Fund created pursuant to Section 80209.

(d) “Groundwater sustainability agency” has the same meaning as defined in Section 10721 of the Water Code.

(e) “Interpretation” includes, but is not limited to, a visitor-serving amenity that enhances the ability to understand and appreciate the significance and value of natural, historical, and cultural resources and that may use educational materials in multiple languages, digital information in multiple languages, and the expertise of a naturalist or other skilled specialist.

(f) “*Natural infrastructure*” means *natural ecological systems or processes that reduce vulnerability to climate change-related hazards, or other related climate change effects, while increasing the long-term adaptive capacity of coastal and inland areas by perpetuating or restoring ecosystem services. “Natural infrastructure” includes, but is not limited to, the conservation, preservation, or sustainable management of any form of aquatic or terrestrial vegetated open space, such as beaches, dunes, tidal marshes, reefs, seagrass, parks, rain gardens, and urban tree canopies. “Natural infrastructure” also includes systems and practices that use or mimic natural processes, such as permeable pavements, bioswales, and other engineered systems, such as levees that are combined with restored natural systems, to provide clean water, conserve ecosystem values and functions, and provide a wide array of benefits to people and wildlife.*

(f)

(g) “Nonprofit organization” means a nonprofit corporation qualified to do business in California and qualified under Section 501(c)(3) of the Internal Revenue Code.

1 (h) “Socially disadvantaged farmers and ranchers” has the
2 same meaning as defined in Section 512 of the Food and
3 Agricultural Code.

4 ~~(g)~~

5 (i) “Tribe” means a California native American tribe that appears
6 on the California Tribal Consultation List maintained by the Native
7 American Heritage Commission.

8 ~~(h)~~

9 (j) “Water board” means the State Water Resources Control
10 Board.

11 (k) “Water Resilience Portfolio” means a suite of recommended
12 actions by the Natural Resources Agency, the California
13 Environmental Protection Agency, and the Department of Food
14 and Agriculture to help the state cope with more extreme droughts
15 and floods, rising temperatures, declining fish populations, aging
16 infrastructure, and other challenges.

17 80203. An amount that equals not more than 5 percent of the
18 funds allocated for a program funded pursuant to this division may
19 be used to pay the administrative costs of that program.

20 80204. (a) The Department of Finance shall provide for an
21 independent audit of expenditures pursuant to this division. The
22 Secretary of the Natural Resources Agency shall publish a list of
23 all program and project expenditures pursuant to this division not
24 less than annually, in written form, and shall post an electronic
25 form of the list on the agency’s internet website in a downloadable
26 spreadsheet format. The spreadsheet shall include information
27 about the location and footprint of each funded project, the
28 project’s objectives, the status of the project, anticipated outcomes,
29 any matching moneys provided for the project by the grant
30 recipient, and the applicable chapter of this division pursuant to
31 which the grant recipient received moneys.

32 (b) If an audit, required by statute, of any entity that receives
33 funding authorized by this division is conducted pursuant to state
34 law and reveals any impropriety, the California State Auditor or
35 the Controller may conduct a full audit of any or all of the activities
36 of that entity.

37 (c) The state agency issuing any grant with funding authorized
38 by this division shall require adequate reporting of the expenditures
39 of the funding from the grant.

(d) The costs associated with the publications, audits, statewide bond tracking, cash management, and related oversight activities provided for in this section shall be funded from this division. These costs shall be shared proportionally by each program through this division. Actual costs incurred to administer nongrant programs authorized by this division shall be paid from the funds authorized in this division.

80205. If any moneys allocated pursuant to this division are not encumbered or expended by the recipient entity within the time period specified by the administering state agency, the unexpended moneys shall revert to the administering state agency for allocation consistent with the applicable chapter.

80206. A state agency that receives funding to administer a grant program under this division shall report to the Legislature annually in the budget on its expenditures pursuant to this division and the public benefits received from those expenditures.

80207. Funds provided pursuant to this division, and any appropriation or transfer of those funds, shall not be deemed to be a transfer of funds for the purposes of Chapter 9 (commencing with Section 2780) of Division 3 of the Fish and Game Code.

80208. For grants awarded for ~~projects that serve a disadvantaged community or severely disadvantaged community,~~ *projects under this division*, the administering state agency may provide advanced payments in the amount of 25 percent of the grant award to the recipient, including state-related entities, to initiate the project in a timely manner. The administering state agency shall adopt additional requirements for the recipient of the grant regarding the use of the advanced payments to ensure that the moneys are used properly.

80209. (a) The proceeds of bonds issued and sold pursuant to this division, exclusive of refunding bonds issued and sold pursuant to Section 80292, shall be deposited in the *Economic Recovery*, Wildfire Prevention, Safe Drinking Water, ~~Climate Resilience~~, Drought Preparation, and Flood Protection Fund, which is hereby created in the State Treasury. Moneys in the fund shall be available, upon appropriation by the Legislature, for purposes of this division.

(b) Proceeds of bonds issued and sold pursuant to this division shall be allocated according to the following schedule:

(1) One billion six hundred twenty-five million dollars (\$1,625,000,000) for wildfire prevention and climate risk reduction, in accordance with Chapter 2 (commencing with Section 80220).

(2) One billion one hundred million dollars (\$1,100,000,000) for the protection of coastal lands, bays, and oceans from climate risks, in accordance with Chapter 3 (commencing with Section 80230).

(3) One billion three hundred fifty-five million dollars (\$1,355,000,000) for the protection of California's water supplies from multiyear droughts, reducing flood risk from extreme events, and providing safe drinking water, in accordance with Chapter 4 (commencing with Section 80240).

(4) One billion three hundred million dollars (\$1,300,000,000) for the protection of California's wildlife, biodiversity, fisheries, and working and agricultural lands from climate risks, in accordance with Chapter 5 (commencing with Section 80260).

(5) One billion six hundred million dollars (\$1,600,000,000) for regional climate resilience projects that address multiple risks, in accordance with Chapter 6 (commencing with Section 80270).

80210. The Legislature may enact legislation necessary to implement programs funded by this division.

CHAPTER 2. WILDFIRE PREVENTION AND CLIMATE RISK REDUCTION

80220. For purposes of this chapter, ~~“structure the following definitions apply:~~

(a) “Risk reduction buffer” means community design measures that integrate greenspaces or open spaces that are managed to reduce the spread of wildfires, and are located either between the structures and the wildlands or are strategically interspersed among the structures in a community to reduce structure vulnerability to wildfire risks. Risk reduction buffers shall be designed to provide additional benefits that may include shelter from natural disasters, recreation, habitat, storm water capture, and active transportation.

(b) “Structure hardening” means the installation, replacement, or retrofitting of building materials, systems, or assemblies used in the exterior design and construction of existing nonconforming structures with features that are in compliance with Chapter 7A

(commencing with Section 701A.1) of Title 24 of the California Code of Regulations, or any appropriate successor regulatory code with the primary purpose of reducing risk to structures from wildfire or conforming to the low-cost retrofit list, and updates to that list, developed pursuant to paragraph (1) of subdivision (c) of Section 51189 of the Government Code.

80220.5. The sum of one billion six hundred twenty-five million dollars (\$1,625,000,000) shall be available, upon appropriation by the Legislature, for the prevention and reduction in the risk of wildfires to lives, properties, and natural resources. The goals of this chapter shall be the following:

(a) The creation of risk reduction buffer between communities and the wildland.

(b) The creation of strong local fire safe planning and risk reduction work to improve community fire resilience.

(c) The improvement of forest and other habitat health to reduce the risk of fire, reduce fire intensity, and restore historic ecosystem function while improving water supply and water quality.

(d) The creation of cost-effective efforts to complete community and structure hardening projects that target entire neighborhoods or communities.

80221. (a) Of the funds made available by Section 80220.5, five hundred million dollars (\$500,000,000) shall be available to the Office of Emergency Services, in coordination and conjunction with the Department of Forestry and Fire Protection, for a prehazard mitigation grant program. The grant program shall be allocated to assist local and state agencies to leverage additional funds, including matching grants from federal agencies. The grant program shall fund efforts that include providing loans, rebates, direct assistance, and matching funds that prevent wildfires and reduce the risk of wildfires to communities, increasing community hardening. Eligible projects include, but are not limited to, the following:

(1) Grants to local agencies, state agencies, joint powers authorities, 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 power authorities, tribes, resource conservation districts, fire safe councils, and nonprofit organizations for hardening of critical community

1 infrastructure, evacuation centers, hardening projects that reduce
2 the risk of wildfire for entire neighborhoods and communities, risk
3 reduction buffers, and incentives to remove structures that
4 significantly increase hazard risk.

5 (b) The Office of Emergency Services and the Department of
6 Forestry and Fire Protection shall prioritize prehazard mitigation
7 grant funding applications from local agencies based on the “Fire
8 Risk Reduction Community” list, upon development of that list,
9 pursuant to Section 4290.1.

10 (c) The Office of Emergency Services and the Department of
11 Forestry and Fire Protection shall provide technical assistance to
12 disadvantaged communities, vulnerable populations, including
13 those with access and functional needs, at-risk infrastructure,
14 socially disadvantaged farmers or ranchers, and economically
15 distressed areas to ensure the grant program reduces the
16 vulnerability of those most in need.

17 80222. Of the funds made available by Section 80220.5, one
18 billion twenty-five million dollars (\$1,025,000,000) shall be made
19 available to the Natural Resources Agency and to its departments,
20 boards, and conservancies for projects and grants to improve local
21 fire prevention capacity, improve forest health and resiliency, and
22 reduce the risk of wildfire spreading into populated areas from
23 wildlands. Where appropriate, projects may include activities on
24 lands owned by the United States. The funding made available by
25 this section shall be allocated as follows:

26 (a) Three hundred million dollars (\$300,000,000) shall be made
27 available to the Regional Fire and Forest Capacity Program to
28 increase regional capacity to prioritize, develop, and implement
29 projects that improve forest health and fire resilience, facilitate
30 greenhouse gas emissions reductions, and increase carbon
31 sequestration in forests throughout California. The funding shall
32 be allocated based, to the extent feasible, on the findings of the
33 review of the regional capacity required by Section 4123.7.

34 (b) Three hundred million dollars (\$300,000,000) shall be made
35 available to the Department of Forestry and Fire Protection to
36 support various long-term forest health projects, including
37 reforestation; conservation easements; activities that promote
38 long-term carbon storage; and upper watershed, riparian, mountain
39 meadow, and inland wetland restoration. Projects shall reflect the
40 concurrence of the Department of Fish and Wildlife and the water

1 board, respectively, when a project may affect their statutory
2 jurisdiction and shall be consistent with Section 4799.05.

3 (c) Three hundred million dollars (\$300,000,000) shall be made
4 available to forests and other habitats, including, but not limited
5 to, redwoods, conifers, oak woodlands, chaparral, deserts, and
6 coastal forest watershed improvement projects that include the use
7 of prescribed fire and improve water supply or water quality.
8 Projects shall include the restoration of natural ecosystem functions
9 in high fire hazard areas and provide multiple benefits including,
10 but not be limited to, habitat protection, science-based fuel
11 reduction, watershed protection, carbon sequestration, protection
12 of older fire-resistant trees, and improved forest health. The Natural
13 Resources Agency shall require a contribution of matching funds
14 or in-kind work, as determined appropriate, from beneficiaries of
15 the watershed, which may include, but not limited to, water
16 districts, public utilities, local agencies, or private users. As a
17 condition of funds granted pursuant to this section, the Natural
18 Resources Agency shall ensure long-term benefits for projects
19 funded pursuant to this subdivision, including an ongoing
20 commitment to future maintenance and a commitment to long-term
21 increases in carbon sequestration.

22 (d) Fifty million dollars (\$50,000,000) shall be made available
23 to the Department of Forestry and Fire Protection to provide
24 funding to fire safe councils, nongovernmental organizations with
25 demonstrated expertise, and resource conservation districts for the
26 purchase of large equipment necessary to conduct fuel reduction
27 and forest health projects. The department shall develop funding
28 guidelines to ensure the equipment purchased receives necessary
29 maintenance by the owner, is used appropriately by trained
30 operators, provides public benefits, and is made available for fuel
31 reduction and forest health projects in a cost-effective manner.
32 Eligible equipment may include equipment for biomass utilization
33 and shall have a durability suitable for capital expenditure.

34 (e) Seventy-five million dollars (\$75,000,000) shall be made
35 available to the Sierra Nevada Conservancy for purposes of
36 watershed improvement, forest health, biomass utilization, and
37 forest restoration workforce development. Seventy percent of the
38 funds made available by this subdivision shall be made available
39 to the Sierra Nevada Watershed Improvement Program created by
40 Section 33345.1.

80223. Of the funds made available by Section 80220.5, not less than fifty million dollars (\$50,000,000) shall be allocated to the air board, in consultation with the Natural Resources Agency and the Department of Forestry and Fire Protection, to incentivize new projects in California that provide long-term capital infrastructure to convert forest and other vegetation waste removed for wildfire mitigation to beneficial uses that maximize reductions in the emissions of greenhouse gases, provide local benefits for air quality, and help to increase local community resilience against climate change impacts.

80224. Of the funds made available by Section 80220.5, fifty million dollars (\$50,000,000) shall be available to the Department of Parks and Recreation to plan for and implement projects to reduce the risks of fire and for the fire hardening of infrastructure for units of the state park system.

80225. To the extent feasible, a project whose application includes the use of services of the California Conservation Corps or certified community conservation corps, as defined in Section 14507.5, shall be given preference for receipt of a grant under this division.

CHAPTER 3. PROTECTING COASTAL LANDS, BAYS, AND OCEANS FROM SEA LEVEL RISE AND OTHER CLIMATE RISKS

80230. The sum of one billion one hundred million dollars (\$1,100,000,000) shall be available, upon appropriation by the Legislature, for the protection and restoration of coastal and ocean resources from sea level rise, ocean acidification, and other impacts of climate change. The goal of this chapter is to provide funding for projects that slow the impacts of sea level rise, especially in combination with storm surges, with nature-based solutions; increase the ability of the ocean and coastal systems to capture and store carbon dioxide; and support sustainable fisheries.

80231. (a) Eligible projects under this chapter include, but are not limited to, projects to protect, restore, and increase the resilience of coastal and ocean ecosystems, such as beaches, bluffs, grasslands, chaparral, shrublands, forests, waters, coastal watersheds, wetlands, natural resources, fisheries, *estuarine habitat*, *kelp forests*, *seagrass and eelgrass habitat*, and wildlife ~~populations~~

1 in coastal areas. Projects may address the protection and resilience
2 of public recreation and public access facilities.

3 (b) The following criteria shall be used for projects under this
4 chapter:

5 (1) Projects shall leverage local, nonbond state, federal, or
6 private funding of at least 50 percent for infrastructure projects.

7 (2) Projects should prioritize natural infrastructure. For projects
8 with multiple benefits to water supply, water quality, wildlife, and
9 biodiversity, a match of at least 25 percent from local, state, federal,
10 or private funding is required.

11 (3) Projects leveraging ongoing state funding for carbon
12 sequestration, transportation, general funds shall be given priority.

13 (4) Up to 10 percent of project costs may be used for project
14 planning.

15 (5) Projects are required to demonstrate ongoing monitoring
16 and scientific review. Up to 5 percent of project funds may be used
17 for this purpose.

18 80232. (a) Of the funds made available by Section 80230, the
19 sum of six hundred million dollars (\$600,000,000) shall be
20 available to the State Coastal ~~Conservancy~~. *Conservancy, the*
21 *California Coastal Commission, and the San Francisco Bay*
22 *Conservation and Development Commission.*

23 (b) Of the funds made available by subdivision (a), three
24 hundred million dollars (\$300,000,000) shall be available *to the*
25 *State Coastal Conservancy* for projects to protect, restore, and
26 increase the resilience of beaches, bays, coastal dunes, wetlands,
27 coastal forests, and coastal watershed resources pursuant to
28 Division 21 (commencing with Section 31000), including land
29 acquisition, or conservation easements on, land in or adjacent to
30 the California coastal zone with open space, recreational,
31 biological, cultural, scenic, or agricultural values, or lands adjacent
32 to marine protected areas, including marine conservation areas,
33 whose preservation will contribute to the ecological quality of
34 those marine protected areas.

35 (c) Of the funds made available by subdivision (a), one hundred
36 fifty million dollars (\$150,000,000) shall be available *to the State*
37 *Coastal Conservancy* for competitive grants for demonstration
38 and pilot projects that use natural infrastructure to protect critical
39 infrastructure that is vulnerable to sea level rise and flooding.

(d) Of the funds made available by subdivision (a), one hundred million dollars (\$100,000,000) shall be available *to the State Coastal Conservancy* for grants to remove outdated or obsolete dams and water infrastructure. Up to 25 percent of the funds made available in this subdivision may be awarded for the public benefits associated with updating outdated dams and water infrastructure.

(e) Of the funds made available by subdivision (a), the sum of thirty million dollars (\$30,000,000) shall be available to the California Coastal Commission for grants for local adaptation planning and updating local coastal programs and twenty million dollars (\$20,000,000) shall be available to the San Francisco Bay Conservation and Development Commission for coastal planning and projects within its jurisdiction.

80233. (a) Of the funds made available by Section 80230, the sum of two hundred million dollars (\$200,000,000) shall be available to the Ocean Protection Council.

(b) Of the amount made available by subdivision (a), one hundred million dollars (\$100,000,000) shall be available for deposit into the California Ocean Protection Trust Fund for competitive grants consistent with Section 35650. Priority shall be given to projects that assist coastal communities, including those reliant on commercial fisheries, with adaptation to climate change, including projects that address ocean acidification, increasing ocean temperatures, sea level rise, and habitat restoration and protection.

(c) Of the funds made available by subdivision (a), fifty million dollars (\$50,000,000) shall be available for projects that increase the ability of the ocean and coastal ecosystems to capture, sequester, and store carbon dioxide.

80234. Of the funds made available by Section 80230, two hundred *fifty* million dollars ~~(\$200,000,000)~~ (\$250,000,000) shall be available *to the Natural Resources Agency and its departments, boards, and conservancies or the Ocean Protection Council* for competitive grants to restore or enhance coastal and ocean ecosystems. No less than 50 percent of the funds allocated by this subdivision shall be for competitive grants for projects that use nature-based solutions to address climate change impacts to California's ocean and coastal ecosystems, including, but not limited to, wetlands, estuarine habitat, kelp forests, seagrass habitat, eelgrass beds, and the state's system of marine protected areas.

1 Grant programs may be administered by the State Coastal
2 Conservancy, the Department of Fish and Wildlife, the water board,
3 or the Ocean Protection Council. The administering agency shall
4 coordinate with all relevant state agencies, and relevant local,
5 regional, and state conservancies.

6 80235. Of the funds made available by Section 80230, fifty
7 million dollars (\$50,000,000) shall be available to the Department
8 of Parks and Recreation to plan for and implement projects to
9 reduce the risks of sea level rise for units of the state park system.

10 80236. Projects funded pursuant to this chapter shall be
11 consistent with climate and sea level rise policies and guidelines
12 established by the California Coastal Commission, the Ocean
13 Protection Council, the San Francisco Bay Conservation and
14 Development Commission, and the State Coastal Conservancy, if
15 applicable.

16
17 CHAPTER 4. PROTECTING CALIFORNIA'S WATER SUPPLY
18 DURING DROUGHT, ENHANCING THE STATE'S FLOOD PROTECTION,
19 AND ENSURING SAFE DRINKING WATER
20

21 80240. The sum of one billion three hundred fifty-five million
22 dollars (\$1,355,000,000) shall be available, upon appropriation by
23 the Legislature, for climate resilience related to the delivery of
24 water.

25 80241. Projects funded under this chapter shall ensure access
26 to safe drinking water and water supply in multiyear droughts, and
27 provide for protection from flood risks, especially risks that are
28 magnified by sea level rise, storm surges, and increased intensity
29 atmospheric rivers.

30 80242. (a) Before disbursing grants under this chapter, each
31 state agency that receives funding to administer a competitive grant
32 program under this division shall develop and adopt project
33 solicitation and evaluation guidelines. The guidelines shall include
34 monitoring and reporting requirements and may include a limitation
35 on the dollar amount of grants to be awarded. If the state agency
36 has previously developed and adopted project solicitation and
37 evaluation guidelines that comply with the requirements of this
38 section, it may use those guidelines.

1 (b) Guidelines adopted pursuant to subdivision (a) shall
2 encourage, where feasible, the inclusion of the following project
3 components:

4 (1) Efficient use and conservation of water supplies.

5 (2) The capture of stormwater to reduce stormwater runoff,
6 reduce water pollution, or recharge groundwater supplies, or a
7 combination thereof.

8 (3) Provision of safe and reliable drinking water supplies to
9 park and open-space visitors, and state fairgrounds that serve as
10 emergency evacuation facilities.

11 (4) Support to groundwater sustainability agencies for regional
12 ground water sustainability.

13 (5) Increased climate resilience for wildlife and fish species.

14 80243. (a) Nothing in this chapter determines or alters water
15 rights or water right priorities.

16 (b) Funds provided by this chapter shall not be used to acquire
17 land via eminent domain.

18 80244. An eligible applicant under this chapter is a public
19 agency, joint powers authority, nonprofit organization, public
20 utility, tribe, or mutual water company. To be eligible for funding
21 under this chapter, a project proposed by a public utility that is
22 regulated by the Public Utilities Commission or a mutual water
23 company shall have a clear and definite public purpose and shall
24 benefit the customers of the water system and not the investors.

25 80245. Of the funds made available by Section 80240, three
26 hundred ninety-five million dollars (\$395,000,000) shall be
27 available to the Department of Water Resources in collaboration
28 with the water board, upon appropriation by the Legislature, for
29 competitive grants for projects that support sustainable groundwater
30 management implementation. These funds are dedicated to
31 supporting local groundwater sustainability agencies implementing
32 projects and programs related to the groundwater sustainability
33 plans for critically overdrafted basins. This includes projects with
34 multiple benefits that encourage redundancy in the regional water
35 system, groundwater recharge, including infrastructure projects,
36 and interties. Funding allocated pursuant to this section shall
37 support the regional approach identified in the Water Resilience
38 Portfolio and shall be used for comprehensive regional projects
39 that include water efficiency, water infrastructure, flood control,

1 and groundwater recharge. Projects shall demonstrate multiple
2 water resilience benefits.

3 80246. Of the funds made available by Section 80240, three
4 hundred sixty million dollars (\$360,000,000) shall be available to
5 the water board, upon appropriation by the Legislature, for
6 competitive grants or loans for the purposes described in Chapter
7 5 (commencing with Section 79720) of Division 26.7 of the Water
8 Code to help provide clean, safe, and reliable drinking water to all
9 Californians.

10 80247. Of the funds made available by Section 80240, four
11 hundred million dollars (\$400,000,000) shall be available *to the*
12 *Natural Resources Agency and its departments, boards, and*
13 *conservancies* for the protection and restoration of rivers, lakes,
14 and streams to improve climate resilience, water supplies, water
15 quality, and other benefits. To the extent feasible, preference shall
16 be given to natural infrastructure projects. Eligible projects include,
17 but are not limited to, any of the following:

18 (a) ~~Multibenefit~~ *Multiple benefit* river and urban stream parkway
19 projects that protect and restore riparian habitats, improve climate
20 resilience, enhance natural drainages, protect and restore
21 watersheds, and provide urban access, including for statewide
22 obligations involving multistate agreements.

23 (b) At least 60 percent of the funds shall be available to the
24 Natural Resources Agency for capital outlay projects that provide
25 air quality and habitat benefits and that implement state obligations
26 in arid, desert areas of the state.

27 80248. (a) Of the funds made available by Section 80240, one
28 hundred fifty million dollars (\$150,000,000) shall be available for
29 flood management projects that are components of multiple benefit
30 flood management system improvements that reduce risks to public
31 safety and provide improvement to wildlife habitat. Eligible project
32 types include, but are not limited to, levee setbacks, projects
33 connecting rivers with flood plains, enhancement of flood plains
34 and bypasses, offstream groundwater recharge, and land
35 acquisitions and easements necessary for these project types. To
36 the extent feasible, project selection shall be guided by approved
37 local hazard mitigation plans and preference shall be given to
38 natural infrastructure projects. Eligible projects include any of the
39 following:

1 (1) Multiple benefit flood management projects that reduce the
2 impacts of climate change on inland or coastal infrastructure,
3 communities, or ecosystems, and provide ecosystem, wildlife, or
4 groundwater recharge benefits.

5 (2) Natural infrastructure projects to reduce flood intensity and
6 slow watershed runoff.

7 (3) Projects that capture, clean, or otherwise productively use
8 stormwater.

9 (4) Projects that provide matching grants for, or otherwise
10 leverage funding from, the Federal Emergency Management
11 Agency, the United States Army Corps of Engineers, or other
12 federal mitigation and resilience funding.

13 (5) Projects that provide benefits to fish, waterfowl, wildlife,
14 and anadromous and other native fish species along migratory
15 corridors.

16 (6) Projects that restore streams to a more natural state by
17 removing drainage obstructions, culverts, and paved channels to
18 enable more stormwater to be absorbed and gradually released by
19 soil and plants.

20 (b) Of the funds made available pursuant to this section, at least
21 fifty million dollars (\$50,000,000) shall be allocated for
22 ~~multibenefit~~ *multiple benefit* flood management projects in urban
23 coastal watersheds.

24 80249. Of the funds made available by Section 80240, fifty
25 million dollars (\$50,000,000) shall be available to the Central
26 Valley Flood Protection Board for further development of the State
27 Plan of Flood Control, including the San Joaquin River and
28 Sacramento Valley flood risk management plans. The Central
29 Valley Flood Protection Board shall ensure equitable distribution
30 of funds.

31 80250. To the extent feasible, a project that includes water
32 efficiencies, stormwater capture for infiltration or reuse, or carbon
33 sequestration features in the project design may be given priority
34 for grant funding under this chapter.

35 80251. Moneys allocated by this chapter shall not be used to
36 fulfill any environmental mitigation requirements imposed by law,
37 including paying for the costs of the design, construction, operation,
38 mitigation, or maintenance of Delta conveyance facilities. Those
39 costs shall be the responsibility of the water agencies that benefit

1 from the design, construction, mitigation, or maintenance of those
2 facilities.

3 80252. To the extent feasible, a project whose application
4 includes the use of services of the California Conservation Corps
5 or certified community conservation corps, as defined in Section
6 14507.5, and resource conservation districts, shall be given
7 preference for receipt of a grant under this chapter.
8

9 CHAPTER 5. PROTECTING FISH, WILDLIFE, NATURAL AREAS,
10 WORKING LANDS, AND AGRICULTURE FROM CLIMATE RISKS
11

12 80260. The sum of one billion three hundred million dollars
13 (\$1,300,000,000) shall be available, upon appropriation by the
14 Legislature, for the purposes of this chapter. Projects pursuant to
15 this chapter shall have the goal to do any of the following:

16 (a) Restore natural lands to better maintain ecosystem benefits
17 as climate conditions change.

18 (b) Enhance fish and wildlife corridors and habitat linkages to
19 enhance the ability of wildlife to adapt to changing climate
20 conditions.

21 (c) Protect our farms, ranches, and working lands from changing
22 climate conditions.

23 80261. (a) Of the funds made available by Section 80260, four
24 hundred million dollars (\$400,000,000) shall be available to the
25 Wildlife Conservation Board for the protection of California's fish
26 and wildlife resources in response to changing climate conditions,
27 as well as for restoration and stewardship projects that restore or
28 manage land or habitat to improve its resilience to climate impacts
29 and natural disasters. Eligible projects include, but are not limited
30 to, the following:

31 (1) Salmon and other fishery preservation, enhancement, and
32 habitat restoration projects.

33 (2) Projects to protect and restore wetlands and other fish and
34 wildlife habitat, including, but not limited to, habitat used by
35 migratory birds.

36 (3) Projects for the protection and restoration of fish and wildlife
37 corridors and habitat linkages, the construction or repair of
38 corridors, and the removal or modification of barriers. Projects
39 may include planning, monitoring, and data collection necessary
40 to track movement of wildlife around and across transportation

1 facilities and to establish the best locations to construct wildlife
2 crossing features, including fish passage improvements.

3 (4) Land acquisition projects, including, but not limited to, those
4 that protect land from development or prevent the conversion of
5 rangeland, grazing land, or grassland to nonagricultural uses.

6 (5) Projects for conservation actions on private lands, including,
7 but not limited to, incentives, matching grants, and technical
8 assistance for private landowners to implement conservation
9 actions.

10 (6) Projects for the protection of threatened and endangered
11 species, including projects within natural community conservation
12 plans adopted pursuant to the Natural Community Conservation
13 Planning Act (Chapter 10 (commencing with Section 2800) of
14 Division 3 of the Fish and Game Code) or habitat conservation
15 plans. Projects may include land acquisition through either
16 easement or fee title.

17 (7) Projects that include acquisition of water or water rights
18 from willing sellers, acquisition of land that includes water rights
19 or contractual rights to water, and other projects that provide water
20 for fish and wildlife or improve aquatic or riparian habitat
21 conditions.

22 (8) Projects for the development and implementation of regional
23 conservation investment strategies that include climate resilience
24 elements and are not otherwise funded by the state pursuant to
25 Section 800 of the Streets and Highways Code.

26 (9) Restoration activities to control or eradicate invasive plants
27 or insects that degrade wildlife corridors or habitat linkages, inhibit
28 the recovery of threatened or endangered species, or reduce the
29 climate resilience of a natural system and its species.

30 (10) Protection and restoration of redwood forests in order to
31 accelerate old growth characteristics, maximize carbon
32 sequestration, improve water quality, and build climate resilience.

33 (11) Protection and restoration of oak woodlands pursuant to
34 Section 1363 of the Fish and Game Code and grasslands pursuant
35 to Section 10330 of the Public Resources Code.

36 (b) Funding made available by subdivision (a) shall not be used
37 to offset mitigation obligations otherwise required, but may be
38 used as part of a funding partnership to enhance, expand, or
39 augment conservation efforts required by mitigation.

80262. Of the funds made available by Section 80260, one hundred million dollars (\$100,000,000) shall be available to the Wildlife Conservation Board for groundwater sustainability projects that provide wildlife habitat. Projects may support implementation of the Sustainable Groundwater Management Act (Part 2.74 (commencing with Section 10720) of Division 6 of the Water Code). Eligible projects include, but are not limited to, the following:

(a) Projects that create, protect, or restore permanent wildlife habitat.

(b) Projects that permanently create, protect, or restore seasonal wetland habitat that provides aquifer replenishment.

(c) Projects that improve groundwater supply, including groundwater recharge, improved baseflows in rivers and streams, and groundwater supply improvement for fish and wildlife habitat.

(d) (1) Projects that convert land to lesser water use while maintaining natural and working lands.

(2) Any groundwater recharge achieved under this section shall remain in the basin to improve groundwater conditions. Payments shall be linked to achievement and delivery of defined conservation outcomes, the duration of those outcomes, and the commitment of matching funds.

80263. Of the funds made available by Section 80260, one hundred million dollars (\$100,000,000) shall be available to the Department of Fish and Wildlife to improve the climate resilience of fish and wildlife habitat. Eligible projects include, but are not limited to, the following:

(a) Projects on lands managed by the Department of Fish and Wildlife to reduce the risks of fire, flood, inundation, sea level rise, and other risks associated with climate change and for the protection and restoration of infrastructure and natural resources.

(b) Competitive grants for projects that enhance or restore inland or diadromous native fish species habitat. Projects include, but are not limited to, enhanced stream flows, improved fish passage, reconnection of riverine and floodplain habitat, and other actions to help fish adapt to climate change.

80264. To the extent feasible in implementing this chapter, a state agency receiving funding under this chapter shall seek to achieve wildlife conservation objectives through projects on public lands or voluntary projects on private lands. Projects on private

lands shall be evaluated based on the durability of the benefits created by the investment. Funds may be used for payments for the protection or creation of measurable habitat improvements or other improvements to the condition of endangered or threatened species, including through the development and implementation of habitat credit exchanges.

80265. (a) Of the funds made available pursuant to Section 80260, the sum of five hundred million dollars (\$500,000,000) shall be available to the Natural Resources Agency for conservancies specified in subdivision (b). The Natural Resources Agency shall allocate funds according to each conservancy's governing statutes and funds shall be for climate resilience and reducing the risks of climate change impacts upon communities, fish and wildlife, and natural resources.

(b) The conservancy that are eligible for these funds include Baldwin Hills Conservancy, State Coastal Conservancy, California Tahoe Conservancy, Coachella Valley Mountains Conservancy, Sacramento-San Joaquin Delta Conservancy, San Diego River Conservancy, San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy, San Joaquin River Conservancy, Santa Monica Mountains Conservancy, Sierra Nevada Conservancy, and any subsequent conservancies approved by the Legislature, including changes to those conservancies. The State Coastal Conservancy's allocation shall include projects for its San Francisco Bay Area Conservancy Program and the Santa Ana River Conservancy programs.

(c) The Natural Resources Agency, in consultation with the Wildlife Conservation Board, shall allocate funds based on a review of the strength of the information outlined in each conservancy's climate resiliency plan required pursuant to Section 80266. The Natural Resources Agency shall allocate no less than ten million dollars (\$10,000,000) of the funds made available pursuant to this section to each conservancy.

(d) When allocating funds pursuant to this section, the Natural Resources Agency shall give preference to all of the following:

- (1) Projects that use natural infrastructure.
- (2) Projects done jointly by more than one conservancy.
- (3) Projects that maximize greenhouse gas reductions.
- (4) Conservancies that provide technical assistance to disadvantaged communities, vulnerable populations, including

1 those with access and functional needs, at-risk infrastructure,
2 socially disadvantaged farmers or ranchers, and economically
3 distressed areas.

4 (e) On or before March 1, 2021, the Natural Resources Agency
5 shall develop and provide guidelines for climate resiliency plans
6 to each conservancy.

7 (f) The Natural Resources Agency shall hold at least one public
8 workshop before allocating the funds made available pursuant to
9 this section and shall make information describing the final
10 allocation publicly available on its internet website.

11 80266. (a) On or before January 1, 2022, the Baldwin Hills
12 Conservancy, State Coastal Conservancy, California Tahoe
13 Conservancy, Coachella Valley Mountains Conservancy,
14 Sacramento-San Joaquin Delta Conservancy, San Diego River
15 Conservancy, San Gabriel and Lower Los Angeles Rivers and
16 Mountains Conservancy, San Joaquin River Conservancy, Santa
17 Monica Mountains Conservancy, and Sierra Nevada Conservancy
18 shall develop a climate resiliency plan that shall be adopted by
19 each conservancy's governing board. Each climate resiliency plan
20 shall do all of the following:

21 (1) Describe how the impacts of climate change relate to the
22 conservancy's mission and how they will affect the lands within
23 its jurisdiction.

24 (2) Describe the conservancy's past investment and work
25 addressing the impacts of climate change, reducing greenhouse
26 gas emissions, and improving climate resiliency.

27 (3) Outline a list of all projects or programs that the conservancy
28 would propose to fund with an allocation by the Natural Resources
29 Agency pursuant to Section 80265.

30 (4) Describe the potential benefits of each project or program
31 in increasing climate resilience and reducing the risks of climate
32 change impacts upon communities, fish and wildlife, and natural
33 resources.

34 (b) Each conservancy shall make the climate resiliency plan
35 available on its internet website and provide the climate resiliency
36 plan to the Natural Resources Agency.

37 80267. (a) For purposes of this section, ~~the following~~
38 ~~definitions apply:~~ *"small- and medium-sized farms" means farms*
39 *and ranches of 500 acres or less.*

1 ~~(1) “Socially disadvantaged farmers and ranchers” has the same~~
2 ~~meaning as defined in Section 512 of the Food and Agricultural~~
3 ~~Code.~~

4 ~~(2) “Small- and medium-sized farms” means farms and ranches~~
5 ~~of 500 acres or less.~~

6 (b) Of the funds made available by Section 80260, two hundred
7 million dollars (\$200,000,000) shall be available, upon
8 appropriation by the Legislature, for purposes of protecting
9 California’s agricultural resources, open spaces, and lands from
10 climate resilience. Projects pursuant to this chapter shall have
11 climate resiliency goals including:

12 (1) Improving soil health to allow for better water retention,
13 carbon sequestration, and reduced soil erosion to improve resiliency
14 from droughts and floods while improving water quality.

15 (2) Improve on-farm water efficiency to improve resiliency
16 from multiyear droughts.

17 (3) Improve the state’s ability to respond to risks from invasive
18 species.

19 (c) Of the funds made available by subdivision (b), one hundred
20 fifty million dollars (\$150,000,000) shall be available to the
21 Department of Food and Agriculture for improvements in climate
22 resilience of agricultural lands and ecosystem health and allocated
23 to eligible projects as follows:

24 (1) (A) Fifty million dollars (\$50,000,000) for grants to promote
25 practices on farms and ranches that improve soil health, accelerate
26 atmospheric carbon removal or soil carbon sequestration, improve
27 water quality, enhance groundwater recharge and surface water
28 supplies, or improve fish or wildlife habitat.

29 (B) At least 35 percent of the funds allocated pursuant to this
30 paragraph shall be allocated to projects that provide direct and
31 meaningful benefits to farmers and ranchers in disadvantaged
32 communities.

33 (C) Priority shall be given to small- and medium-sized farms
34 and socially disadvantaged farmers and ranchers.

35 (2) (A) Forty million dollars (\$40,000,000) for grants to
36 promote on-farm water use efficiency with a focus on multiple
37 benefit projects that improve groundwater management, climate
38 resiliency, water quality, surface water use efficiency, drought and
39 flood tolerance, or water supply and water quality conditions for
40 fish and wildlife.

1 (B) At least 35 percent of the funds allocated pursuant to this
2 paragraph shall be allocated to projects that provide direct and
3 meaningful benefits to farmers and ranchers in disadvantaged
4 communities.

5 (C) Priority shall be given to small- and medium-sized farms
6 and socially disadvantaged farmers and ranchers.

7 (3) Forty million dollars (\$40,000,000) for projects that promote
8 the reduction of methane emissions from dairy and livestock
9 operations and improved water quality through alternative manure
10 management and handling, including, but not limited to, the
11 creation of composted manure products. Projects shall not include
12 the funding of anaerobic digesters.

13 (4) Twenty million dollars (\$20,000,000) to be deposited in the
14 Invasive Species Account established pursuant to Section 7706 of
15 the Food and Agricultural Code for purposes of funding invasive
16 species projects and activities recommended by the Invasive
17 Species Council of California. Priority shall be given to projects
18 that restore and protect ecosystem health.

19 (d) Of the funds made available by subdivision (b), fifty million
20 dollars (\$50,000,000) shall be available to the Department of
21 Conservation for projects for the protection, restoration, and
22 enhancement of farmland and rangeland, including, but not limited
23 to, the acquisition of fee titles or easements, that improve climate
24 resilience, open-space soil health, atmospheric carbon removal,
25 soil carbon sequestration, erosion control, watershed restoration,
26 conservation projects, water quality, water retention, and provide
27 multiple benefits. In awarding funds for farmland and rangeland
28 projects pursuant to this section, the Department of Conservation
29 shall give preference to projects for small- and medium-sized farms
30 At least 35 percent of the funds allocated pursuant to this section
31 shall be allocated to projects that provide direct and meaningful
32 benefits to farmers and ranchers in severely disadvantaged
33 communities.

34 80268. Funds provided by this chapter shall not be expended
35 to pay the costs of the design, construction, operation, mitigation,
36 or maintenance of Delta conveyance facilities. Those costs shall
37 be the responsibility of the water agencies that benefit from the
38 design, construction, operation, mitigation, or maintenance of those
39 facilities.

CHAPTER 6. STRENGTHENING CALIFORNIA'S REGIONAL CLIMATE
RESILIENCE

80270. ~~(a) The sum of one billion six hundred million dollars (\$1,600,000,000) shall be made available, upon appropriation by the Legislature, to the Strategic Growth Council for the reduction in the risk of climate impacts to communities, including, but not limited to, wildfire, sea level rise, and extreme heat events. The goal of these funds is to encourage the development and implementation of multiple-benefit, cross-sector projects that respond to the region's greatest climate vulnerabilities. for the purposes of strengthening California's climate resilience based on projects tailored to its unique regions.~~

~~(b) These funds shall be available to local governments or regional collaboratives to implement the highest priority projects identified in qualified local or regional climate adaptation plans.~~

~~(c) The Strategic Growth Council shall develop guidelines for the development of qualified climate adaptation plans by June 1, 2021. At a minimum, qualified climate adaptation plans shall include:~~

~~(1) An identification of the most critical vulnerabilities in its jurisdiction to public health, infrastructure, and natural resources.~~

~~(2) Corresponding strategies to reduce those vulnerabilities and the amount of risk and damage and identification of priority projects to implement those strategies.~~

~~(3) An assessment of the planning entity's ability to minimize climate vulnerabilities within its planning jurisdiction and whether its priority projects may have negative impacts on neighboring jurisdictions.~~

~~(d) The following documents may serve as a local government or regional collaborative climate adaptation plan so long as it meets the requirements of subdivision (c):~~

~~(1) The safety element of a general plan that has been updated pursuant to subdivision (g) of Section 65302 of the Government Code.~~

~~(2) A local hazard mitigation plan, reviewed by the Office of Emergency Services and approved by the Federal Emergency Management Agency in accordance with the federal Disaster Mitigation Act of 2000 (Public Law 106-390).~~

~~(e) Funds from this section may not be appropriated for at least one year following the Strategic Growth Council's adoption of guidelines for qualified climate adaptation plans.~~

~~(f) Funds from the section shall be allocated to applicants as follows:~~

~~(1) At least _____ percent of the funds shall be available to the applicant based on the percentage of the state's population included by the climate adaptation plan's jurisdiction, but not less than _____. A county that applies for funding for projects individually as well as part of a regional collaborative may determine what portion of its per capita funding should go to each project, but in no case should a county receive funding for its population more than once under this paragraph.~~

~~(2) _____ may be provided to increase the size of the awards under paragraph (1) to the extent the qualified climate adaptation plan does any of the following:~~

~~(A) Protects vulnerable communities.~~

~~(B) Protects natural resources prioritized by the state.~~

~~(C) Enhances statewide climate adaptation strategies, as identified by the most recent update of the Safeguarding California Plan developed by the Natural Resources Agency.~~

~~(D) Reduces carbon emissions.~~

~~(E) Sequesters carbon emissions.~~

~~(F) Was developed with input from community groups~~

~~(3) _____ shall be made available on a statewide competitive basis for projects prioritized in a qualified climate adaptation plan but not funded under paragraph (1).~~

~~(4) _____ shall be available to support local and regional collaboratives in developing qualified climate adaptation plans.~~

80271. (a) Of the funds made available by Section 80270, one billion three hundred million dollars (\$1,300,000,000) shall be available to the Strategic Growth Council for the reduction in the risk of climate impacts to communities, including, but not limited to, wildfire, sea level rise, and extreme heat events. The goal of these funds is to encourage the development and implementation of multiple-benefit, cross-sector projects that respond to the region's greatest climate vulnerabilities.

(b) Funds made available by this section shall be available to regional climate networks to implement the highest priority projects identified in approved regional climate adaptation action plans.

1 (c) Funds made available by this section shall be for public
2 benefits associated with climate resiliency projects that reduce
3 climate vulnerabilities.

4 (d) Funds made available by this section shall be allocated to
5 regional climate networks, as follows:

6 (1) At least 60 percent of funds shall be available to regional
7 climate networks based on the percentage of the state's population
8 included in the jurisdiction of the network's regional climate
9 adaptation action plan, but not less than two million dollars
10 (\$2,000,000) per network.

11 (2) The remaining funds may be provided to increase the size
12 of the awards under paragraph (1) to the extent the approved
13 regional climate adaptation action plan does any of the following:

14 (A) Protects vulnerable populations.

15 (B) Protects natural resources prioritized by the state.

16 (C) Enhances statewide climate adaptation strategies, as
17 identified by the most recent update of the Safeguarding California
18 Plan developed by the Natural Resources Agency.

19 (D) Reduces or sequesters carbon emissions.

20 (E) Scales to maximize effectiveness of response.

21 (F) Includes information regarding the regional climate
22 network's ability to secure matching funds for projects identified
23 within the plan.

24 ~~80271.~~

25 80272. Of the funds made available by Section 80270, two
26 hundred million dollars (\$200,000,000) shall be available to the
27 Strategic Growth Council for a competitive grant program to reduce
28 the urban heat island-~~impact~~. *effect*. Priority shall be given to
29 projects that provide multiple benefits, including rainwater capture,
30 reduction of stormwater pollution, and increased use of natural
31 spaces for urban vegetation and forestry.

32 ~~80272.~~

33 80273. Of the funds made available by Section 80270, one
34 hundred million dollars (\$100,000,000) shall be available, upon
35 appropriation by the Legislature, to the Department of Food and
36 Agriculture for grants to fairgrounds operated by the network of
37 California fairs for modifications or upgrades that do either or both
38 of the following activities:

39 (a) Enhance the ability of those facilities to serve as multirole
40 community, staging, and evacuation centers to provide community

1 resilience benefits during a disaster, state of emergency, local
2 emergency, or public safety power shutoff event.

3 (b) Deploy communications and broadband infrastructure at
4 those facilities to improve their capability to serve as a multirole
5 community, staging, and evacuation centers and enhance local
6 telecommunications service.

7
8 CHAPTER 7. FISCAL ~~PROVISION~~ PROVISIONS
9

10 80280. (a) Bonds in the total amount of six billion nine
11 hundred eighty million dollars (\$6,980,000,000), not including the
12 amount of any refunding bonds issued in accordance with Section
13 80292, may be issued and sold to provide a fund to be used for
14 carrying out the purposes expressed in this division and to
15 reimburse the General Obligation Bond Expense Revolving Fund
16 pursuant to Section 16724.5 of the Government Code. The bonds,
17 when sold, issued, and delivered, shall be and constitute a valid
18 and binding obligation of the State of California, and the full faith
19 and credit of the State of California is hereby pledged for the
20 punctual payment of both the principal of, and interest on, the
21 bonds as the principal and interest become due and payable.

22 (b) The Treasurer shall cause the issuance and sell the bonds
23 authorized by the committee pursuant to this section. The bonds
24 shall be issued and sold upon the terms and conditions specified
25 in a resolution to be adopted by the committee pursuant to Section
26 16731 of the Government Code.

27 80281. The bonds authorized by this division shall be prepared,
28 executed, issued, sold, paid, and redeemed as provided in the State
29 General Obligation Bond Law (Chapter 4 (commencing with
30 Section 16720) of Part 3 of Division 4 of Title 2 of the Government
31 Code), as amended from time to time, and all of the provisions of
32 that law, except subdivisions (a) and (b) of Section 16727 of the
33 Government Code, apply to the bonds and to this division and are
34 hereby incorporated in this division as though set forth in full in
35 this division.

36 80282. (a) Solely for the purpose of authorizing the issuance
37 and sale, pursuant to the State General Obligation Bond Law
38 (Chapter 4 (commencing with Section 16720) of Part 3 of Division
39 4 of Title 2 of the Government Code), of the bonds authorized by
40 this division, the *Economic Recovery*, Wildfire Prevention, Safe

1 Drinking Water, ~~Climate Resilience~~, Drought Preparation, and
2 Flood Protection Bond Finance Committee is hereby created. For
3 purposes of this division, the *Economic Recovery*, Wildfire
4 Prevention, Safe Drinking Water, ~~Climate Resilience~~, Drought
5 Preparation, and Flood Protection Bond Finance Committee is the
6 “committee,” as that term is used in the State General Obligation
7 Bond Law.

8 (b) The committee consists of the Director of Finance, the
9 Treasurer, the Controller, and the Secretary of the Natural
10 Resources Agency. Notwithstanding any other law, any member
11 may designate a representative to act as that member in that
12 member’s place for all purposes, as though the member were
13 personally present.

14 (c) The Treasurer shall serve as the chairperson of the
15 committee.

16 (d) A majority of the committee may act for the committee.

17 80283. The committee shall determine whether or not it is
18 necessary or desirable to issue bonds authorized by this division
19 in order to carry out the actions specified in this division and, if
20 so, the amount of bonds to be issued and sold. Successive issues
21 of bonds may be authorized and sold to carry out those actions
22 progressively, and it is not necessary that all of the bonds
23 authorized to be issued be sold at any one time.

24 80284. For purposes of the State General Obligation Bond Law
25 (Chapter 4 (commencing with Section 16720) of Part 3 of Division
26 4 of Title 2 of the Government Code), “board,” as defined in
27 Section 16722 of the Government Code, means the Secretary of
28 the Natural Resources Agency.

29 80285. There shall be collected each year and in the same
30 manner and at the same time as other state revenue is collected,
31 in addition to the ordinary revenues of the state, a sum in an amount
32 required to pay the principal of, and interest on, the bonds each
33 year. It is the duty of all officers charged by law with any duty
34 regarding the collection of the revenue to do and perform each and
35 every act that is necessary to collect that additional sum.

36 80286. Notwithstanding Section 13340 of the Government
37 Code, there is hereby continuously appropriated from the General
38 Fund in the State Treasury, for the purposes of this division, and
39 without regard to fiscal years, an amount that will equal the total
40 of the following:

1 (a) The sum annually necessary to pay the principal of, and
2 interest on, bonds issued and sold pursuant to this division, as the
3 principal and interest become due and payable.

4 (b) The sum that is necessary to carry out Section 80289.

5 80287. The board may request the Pooled Money Investment
6 Board to make a loan from the Pooled Money Investment Account,
7 including other authorized forms of interim financing that include,
8 but are not limited to, commercial paper, in accordance with
9 Section 16312 of the Government Code, for the purpose of carrying
10 out this division. The amount of the request shall not exceed the
11 amount of the unsold bonds that the committee has, by resolution,
12 authorized to be sold for the purpose of carrying out this division,
13 excluding any refunding bonds authorized pursuant to Section
14 80292, less any amount loaned and not yet repaid pursuant to this
15 section and withdrawn from the General Fund pursuant to Section
16 80289 and not yet returned to the General Fund. The board shall
17 execute those documents required by the Pooled Money Investment
18 Board to obtain and repay the loan. Any amounts loaned shall be
19 deposited in the fund to be allocated in accordance with this
20 division.

21 80288. Notwithstanding any other provision of this division,
22 or of the State General Obligation Bond Law (Chapter 4
23 (commencing with Section 16720) of Part 3 of Division 4 of Title
24 2 of the Government Code), if the Treasurer sells bonds pursuant
25 to this chapter that include a bond counsel opinion to the effect
26 that the interest on the bonds is excluded from gross income for
27 federal tax purposes under designated conditions or is otherwise
28 entitled to any federal tax advantage, the Treasurer may maintain
29 separate accounts for the bond proceeds invested and for the
30 investment earnings on those proceeds and may use or direct the
31 use of those proceeds or earnings to pay any rebate, penalty, or
32 other payment required under federal law or take any other action
33 with respect to the investment and use of those bond proceeds, as
34 may be required or desirable under federal law in order to maintain
35 the tax-exempt status of those bonds and to obtain any other
36 advantage under federal law on behalf of the funds of this state.

37 80289. For purposes of carrying out this division, the Director
38 of Finance may authorize the withdrawal from the General Fund
39 of an amount or amounts not to exceed the amount of the unsold
40 bonds that have been authorized by the committee to be sold for

1 the purpose of carrying out this division, excluding refunding
2 bonds authorized pursuant to Section 80292, less any amount
3 loaned pursuant to Section 80287 and not yet repaid and any
4 amount withdrawn from the General Fund pursuant to this section
5 and not yet returned to the General Fund. Any amounts withdrawn
6 shall be deposited in the fund to be allocated in accordance with
7 this division. Any moneys made available under this section shall
8 be returned to the General Fund, with interest at the rate earned
9 by the moneys in the Pooled Money Investment Account, from
10 proceeds received from the sale of bonds for the purpose of
11 carrying out this division.

12 80290. All moneys deposited in the fund that are derived from
13 premiums and accrued interest on bonds sold pursuant to this
14 division shall be reserved in the fund and shall be available for
15 transfer to the General Fund as a credit to expenditures for bond
16 interest, except that amounts derived from premiums may be
17 reserved and used to pay the cost of bond issuance before any
18 transfer to the General Fund.

19 80291. Pursuant to the State General Obligation Bond Law
20 (Chapter 4 (commencing with Section 16720) of Part 3 of Division
21 4 of Title 2 of the Government Code), the cost of bond issuance
22 shall be paid or reimbursed out of the bond proceeds, including
23 premiums, if any. To the extent the cost of bond issuance is not
24 paid from premiums received from the sale of bonds, these costs
25 shall be allocated proportionally to each program funded through
26 this division by the applicable bond sale.

27 80292. The bonds issued and sold pursuant to this division
28 may be refunded in accordance with Article 6 (commencing with
29 Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of
30 the Government Code, which is a part of the State General
31 Obligation Bond Law. Approval by the voters of the state for the
32 issuance of the bonds under this division shall include approval
33 of the issuance of any bonds issued to refund any bonds originally
34 issued under this division or any previously issued refunding bonds.
35 Any bond refunded with the proceeds of a refunding bond as
36 authorized by this section may be legally defeased to the extent
37 permitted by law in the manner and to the extent set forth in the
38 resolution, as amended from time to time, authorizing that refunded
39 bond.

1 80293. Notwithstanding Section 16727 of the Government
2 Code, funds provided pursuant to this division may be used for
3 grants and loans to nonprofit organizations to repay financing
4 described in Section 22064 of the Financial Code related to projects
5 that are consistent with the purpose of the respective provisions
6 of this division.

7 80294. The proceeds from the sale of bonds authorized by this
8 division are not “proceeds of taxes” as that term is used in Article
9 XIII B of the California Constitution, and the disbursement of
10 these proceeds is not subject to the limitations imposed by that
11 article.

12 SEC. 3. Section 2 of this act shall take effect upon the approval
13 by the voters of the *Economic Recovery*, Wildfire Prevention, Safe
14 Drinking Water, ~~Climate Resilience~~, Drought Preparation, and
15 Flood Protection Bond Act of 2020, as set forth in Section 2 of
16 this act.

17 SEC. 4. (a) (1) Notwithstanding Sections 9040, 9043, 9044,
18 9061, and 9082 of the Elections Code, or any other law, Section
19 2 of this act shall be submitted by the Secretary of State to the
20 voters at the November 3, 2020, statewide general election.

21 (2) The requirement of Section 9040 of the Elections Code that
22 a measure submitted to the people by the Legislature appear on
23 the ballot of the November 3, 2020, statewide general election
24 occurring at least 131 days after the adoption of the proposal by
25 the Legislature shall not apply to Section 2 of this act.

26 (b) The Secretary of State shall include in the ballot pamphlets
27 mailed pursuant to Section 9094 of the Elections Code the
28 information specified in Section 9084 of the Elections Code
29 regarding Section 2 of this act. If that inclusion is not possible, the
30 Secretary of State shall publish a supplemental ballot pamphlet
31 regarding Section 2 of this act to be mailed with the ballot
32 pamphlet. If the supplemental ballot pamphlet cannot be mailed
33 with the ballot pamphlet, the supplemental ballot pamphlet shall
34 be mailed separately.

35 (c) Notwithstanding Section 9054 of the Elections Code or any
36 other law, the translations of the ballot title and the condensed
37 statement of the ballot title required pursuant to Section 9054 of
38 the Elections Code for Section 2 of this act may be made available
39 for public examination at a later date than the start of the public
40 examination period for the ballot pamphlet.

1 (d) Notwithstanding Sections 13115 and 13117 of the Elections
2 Code, Section 2 of this act and any other measure placed on the
3 ballot by the Legislature for the November 3, 2020, statewide
4 general election after the 131-day deadline set forth in Section
5 9040 of the Elections Code shall be placed on the ballot, following
6 all other ballot measures, in the order in which they qualified as
7 determined by chapter number.

8 SEC. 5. The provisions of this act are severable. If any
9 provision of this act or its application is held invalid, that invalidity
10 shall not affect other provisions or applications that can be given
11 effect without the invalid provision or application.

O

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Assembly California Legislature



EDUARDO GARCIA
CHAIR: ASSEMBLY COMMITTEE ON
WATER, PARKS AND WILDLIFE
ASSEMBLYMEMBER, FIFTY-SIXTH DISTRICT

COMMITTEES
APPROPRIATIONS
COMMUNICATIONS AND CONVEYANCE
GOVERNMENTAL ORGANIZATION
UTILITIES AND ENERGY

CHAIR: SELECT COMMITTEE ON BOYS
AND MEN OF COLOR

March 17th, 2020

Assemblymember Cooley
Chair of the Assembly Rules Committee
State Capitol, Room 3016
Sacramento, CA 95814

Dear Assemblymember Cooley,

Please add an urgency clause for Assembly Bill 3256, the Wildfire Prevention, Safe Drinking Water, Climate Resilience, Drought Preparation, and Flood Protection Bond Act of 2020. This bill provides the state of California the resources necessary to mitigate the effects of climate change and will be put before the voters on the November 3rd, 2020, statewide general election. In order to reach the ballot in time for the upcoming general election, this bill must pass the state legislature before June and requires immediate attention.

Thank you for your prompt response to my request. Please contact Steven Jimenez at 916.319.2056 or 831.261.9491 should any questions arise.

Sincerely,

A handwritten signature in blue ink, appearing to read "Eduardo Garcia".

Eduardo Garcia
Assemblymember, 56th District

AMENDED IN ASSEMBLY MAY 20, 2020

AMENDED IN ASSEMBLY MAY 4, 2020

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 3366

Introduced by Committee on Judiciary (Assembly Members Mark Stone (Chair), ~~Gallagher (Vice Chair)~~, Chau, Chiu, Gonzalez, Holden, Kalra, ~~Kiley~~, Maienschein, ~~Obernolte~~, and Reyes)

March 5, 2020

~~An act to amend Section 354 of the Code of Civil Procedure, relating to civil actions.~~ *An act relating to judicial emergencies.*

LEGISLATIVE COUNSEL'S DIGEST

AB 3366, as amended, Committee on Judiciary. ~~Civil actions: statutes of limitation: emergencies.~~ *Judicial emergencies.*

Existing law authorizes a presiding judge of a superior court to request that the Chairperson of the Judicial Council order the court to take certain actions when war, an act of terrorism, public unrest or calamity, epidemic, natural disaster, or other substantial risk to the health and welfare of court personnel or the public, or the danger thereof, threatens the orderly operation of the courts or makes court facilities unsafe, including, but not limited to, holding court sessions anywhere within the county, transferring civil cases to another county, or extending the time periods for bringing an action to trial, as specified.

This bill would state the intent of the Legislature to enact legislation to clarify the authority of the Chairperson of the Judicial Council to make specified orders under circumstances warranting relief that threaten the orderly operation of superior court locations in more than

one county or that renders presence in, or access to, affected facilities unsafe.

~~Existing law requires a civil action to be commenced within a specified period of time after the cause of action on which the action is based accrues. Under existing law, that period of time varies based on the cause of action. Existing law provides that when a person is under a disability to commence a civil action due to the existence of a state of war, the time during which that disability continues is not part of the time period limited for the commencement of the action.~~

~~This bill would provide that a proclaimed state of emergency, as defined, constitutes a disability for purposes of the provisions described above.~~

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

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

1 *SECTION 1. It is the intent of the Legislature to enact*
2 *legislation to clarify the authority of the Chairperson of the Judicial*
3 *Council to make one or more of the orders specified in Section*
4 *68115 of the Government Code under circumstances warranting*
5 *relief that threaten the orderly operation of superior court locations*
6 *in more than one county or that renders presence in, or access to,*
7 *affected facilities unsafe.*

8 ~~SECTION 1. Section 354 of the Code of Civil Procedure is~~
9 ~~amended to read:~~

10 ~~354. (a) When a person is under a disability to commence an~~
11 ~~action by reason of the existence of a state of war or a proclaimed~~
12 ~~state of emergency the time of the continuance of the disability is~~
13 ~~not part of the period limited for the commencement of the action~~
14 ~~whether the cause of action shall have accrued prior to or during~~
15 ~~the period of the disability.~~

16 ~~(b) For purposes of this section, a “proclaimed state of~~
17 ~~emergency” means a duly proclaimed state of emergency or local~~
18 ~~emergency pursuant to the California Emergency Services Act~~
19 ~~(Chapter 7 (commencing with Section 8550) of Division 1 of Title~~
20 ~~2 of the Government Code).~~

21 ~~(c) In the event of a proclaimed local emergency, as authorized~~
22 ~~in Article 14 (commencing with Section 8630) of Chapter 7 of~~
23 ~~Division 1 of Title 2 of the Government Code, any extension of~~

- 1 ~~time to commence a cause of action shall only apply if the local~~
- 2 ~~emergency has been proclaimed in the county in which the plaintiff~~
- 3 ~~resides or in the county with which the action is commenced.~~

O

MEMBERS

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Assembly California Legislature

**ASSEMBLY COMMITTEE ON JUDICIARY**

MARK STONE, CHAIR

CHIEF COUNSEL

ALISON MERRILEES

DEPUTY CHIEF COUNSEL

LEORA GERSHENZON

COUNSEL

TOM CLARK

NICHOLAS LIEDTKE

JITH MEGANATHAN

COMMITTEE SECRETARY

CINDY MORANTE

COMMITTEE SECRETARY

GRANT SILVA

May 22, 2020

Assemblymember Ken Cooley
Chair, Assembly Committee on Rules
State Capitol, Room 3016
Sacramento, CA 95814

Re: Assembly Bill 3366 (Committee on Judiciary) – Judicial Emergencies – Request to add Urgency Clause

Dear Chair Cooley:

I am writing to request permission of the Assembly Rules Committee to amend AB 3366, authored by the Committee on Judiciary, to include an Urgency Clause that would allow the bill's provisions to take effect immediately.

Under existing Government Code Section 68115, whenever a war, act of terrorism, natural disaster, epidemic, or other emergency creates a substantial risk to the health and welfare of court personnel or the public, or threatens to disrupt the operations of a superior court, the presiding judge of that superior court may request that the Chairperson of the Judicial Council (the Chief Justice) adopt emergency rules relating to the operations and procedures of the courts in that particular county.

As the current COVID-19 pandemic has made clear, Section 68115 does not anticipate a statewide or even multiple-county emergency, as it only allows the Chief Justice to issue emergency orders upon the request of the presiding judge of the superior court, and limits the application of such an order to that particular superior court. During the current crisis, the Chief Justice issued statewide orders pursuant to the Governor's Executive Orders, but she also issued over 100 orders, at the request of presiding judges pursuant to Section 68115, that applied to only one county – even though the orders mostly addressed the same issues.

The amendments to Section 68115 proposed by AB 3366 would allow the Chief Justice, in her role as Chairperson of the Judicial Council, to more effectively and efficiently issue statewide emergency orders, when necessary, with or without an Executive Order. AB 3366 will clarify the authority of the Chairperson of the Judicial Council to make one or more of the orders

specified in Section 68115 of the Government Code under circumstances warranting relief that threaten the orderly operation of superior court locations in more than one county or that renders presence in, or access to, affected facilities unsafe.

Because of the possibility of an unfortunate resurgence of COVID-19 this fall, it may again become necessary for the Chief Justice to make orders regarding court operations if the pandemic affects court operations in multiple counties. Therefore, it is important that the provisions of AB 3366 take effect immediately.

Please feel free to contact me, or Alison Merrilees, Chief Counsel of the Committee, if you have any questions or need more information about AB 3366.

Thank you for your consideration of this request.

Sincerely,

A handwritten signature in blue ink, appearing to read "Mark Stone", with a long horizontal flourish extending to the right.

Mark Stone
Chair, Assembly Committee on Judiciary

LEGISLATIVE COUNSEL'S DIGEST

AB 3366, as amended, Committee on Judiciary. ~~Civil actions; statutes of limitation; emergencies.~~ Judicial emergencies.

Existing law authorizes a presiding judge of a superior court to request that the Chairperson of the Judicial Council order the court to take certain actions when war, an act of terrorism, public unrest or calamity, epidemic, natural disaster, or other substantial risk to the health and welfare of court personnel or the public, or the danger thereof, threatens the orderly operation of the courts or makes court facilities unsafe, including, but not limited to, holding court sessions anywhere within the county, transferring civil cases to another county, or extending the time periods for bringing an action to trial, as specified.

This bill would additionally authorize the Chairperson of the Judicial Council to make those orders at the request of the Judicial Council if those emergency conditions threaten the orderly operation of superior court locations in more than one county, or in one or more courts of appeal, or renders presence in, or access to, affected facilities unsafe.

(Start DF 21d) This bill would declare that it is to take effect immediately as an urgency statute. (End DF 21d)

~~Existing law requires a civil action to be commenced within a specified period of time after the cause of action on which the action is based accrues. Under existing~~

~~law, that period of time varies based on the cause of action. Existing law provides that when a person is under a disability to commence a civil action due to the existence of a state of war, the time during which that disability continues is not part of the time period limited for the commencement of the action.~~

~~This bill would provide that a proclaimed state of emergency, as defined, constitutes a disability for purposes of the provisions described above.~~

Vote: majority 2/3. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

[AMENDED IN...]

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 3366

Introduced by Committee on Judiciary (Assembly Members Mark Stone (Chair), Gallagher (Vice Chair), Chau, Chiu, Gonzalez, Holden, Kalra, Kiley, Maienschein, Obernolte, and Reyes)

[Date introduced]

[Title will go here]

LEGISLATIVE COUNSEL'S DIGEST

AB 3366, as amended, Committee on Judiciary. ~~Civil actions: statutes of limitation: emergencies.~~ *Judicial emergencies.*

[Text of Legislative Counsel's Digest will go here]

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

THIS PAGE IS A MOCKUP OF THE MEASURE AS IT WILL BE PUBLISHED

AMENDMENTS TO ASSEMBLY BILL NO. 3366
AS AMENDED IN ASSEMBLY MAY 4, 2020

Amendment 1

In the title, strike out lines 2 and 3 and insert:

An act to amend Section 68115 of the Government Code, relating to judicial emergencies, and declaring the urgency thereof, to take effect immediately.

Amendment 2

On page 2, before line 1, insert:

SECTION 1. Section 68115 of the Government Code is amended to read:

68115. (a) When war, an act of terrorism, public unrest or calamity, epidemic, natural disaster, or other substantial risk to the health and welfare of court personnel or the public, or the danger thereof, the destruction of or danger to the building appointed for holding the court, a large influx of criminal cases resulting from a large number of arrests within a short period of time, or a condition that leads to a state of emergency being proclaimed by the President of the United States or by the Governor pursuant to Section 8625, threatens the orderly operation of a superior court location or locations within a county or renders presence in,

or access to, an affected court facility or facilities unsafe, the presiding judge may request and the Chairperson of the Judicial Council may, notwithstanding any other law, by order authorize the court to do one or more of the following:

(1) Hold sessions anywhere within the county.

(2) Transfer civil cases pending trial in the court to a superior court in another county. A transfer shall not be made pursuant to this paragraph except as follows:

(A) With the consent of all parties to the case, a pending civil case may be transferred to a superior court in any county.

(B) Upon a finding by the court that extreme or undue hardship would result unless the case is transferred for trial, a pending civil case may be transferred to any superior court in an adjacent county or to any superior court within 100 miles of the border of the county in which the court impacted by the emergency is situated. In addition to the foregoing, if a court is located within an area identified to be within the boundary of a state of emergency proclaimed by the Governor pursuant to Section 8625, a pending civil case may be transferred to any superior court within 100 miles of the outer boundary of the area proclaimed to be experiencing a state of emergency.

(3) Any civil case so transferred pursuant to paragraph (2) shall be integrated into the existing caseload of the court to which it is transferred pursuant to rules to be provided by the Judicial Council. This section does not affect a court's authority under Section 69740.

(4) Declare that a date or dates on which an emergency condition, as described in this section, substantially interfered with the public's ability to file

papers in a court facility or facilities be deemed a holiday for purposes of computing the time for filing papers with the court under Sections 12 and 12a of the Code of Civil Procedure. This paragraph applies to the fewest days necessary under the circumstances of the emergency, as determined by the Chairperson of the Judicial Council.

(5) Declare that a date on which an emergency condition, as described in this section, prevented the court from either (A) conducting proceedings governed by Section 825 of the Penal Code, or Section 315, 334, 631, 632, 637, or 657 of the Welfare and Institutions Code, or (B) accepting the filing of petitions for purposes of Section 313 or 631 of the Welfare and Institutions Code, be deemed a holiday for purposes of computing time under those statutes. This paragraph applies to the fewest days necessary under the circumstances of the emergency, as determined by the Chairperson of the Judicial Council.

(6) Extend the time periods provided in Sections 583.310 and 583.320 of the Code of Civil Procedure to bring an action to trial. The extension shall be for the fewest days necessary under the circumstances of the emergency, as determined by the Chairperson of the Judicial Council.

(7) Extend the duration of any temporary restraining order that would otherwise expire because an emergency condition, as described in this section, prevented the court from conducting proceedings to determine whether a permanent order should be entered. The extension shall be for the fewest days necessary under the circumstances of the emergency, as determined by the Chairperson of the Judicial Council.

(8) Within the affected county during a state of emergency resulting from a natural or human-made disaster proclaimed by the President of the United States or by the Governor pursuant to Section ~~8625 of the Government Code~~, 8625, extend the time period provided in Section 825 of the Penal Code within which a defendant charged with a felony offense shall be taken before a magistrate from 48 hours to not more than seven days, with the number of days to be designated by the Chairperson of the Judicial Council. This authorization shall be effective for 30 days unless it is extended by a new request and a new order.

(9) Extend the time period provided in Section 859b of the Penal Code for the holding of a preliminary examination from 10 court days to not more than 15 court days.

(10) Extend the time period provided in Section 1382 of the Penal Code within which the trial must be held by not more than 30 days, but the trial of a defendant in custody whose time is so extended shall be given precedence over all other cases.

(11) Within the affected area of a county during a state of emergency resulting from a natural or human-made disaster proclaimed by the President of the United States or by the Governor pursuant to Section ~~8625 of the Government Code~~, 8625, extend the time periods provided in Sections 313, 315, 632, and 637 of the Welfare and Institutions Code, with the number of days to be designated by the Chairperson of the Judicial Council. The extension of time shall be for the shortest period of time necessary under the circumstances of the emergency, but the time period shall not be extended to more than seven days. This authorization

shall be effective for 30 days unless it is extended by a new request and a new order. With regard to the time periods provided in Sections 632 and 637 of the Welfare and Institutions Code, this paragraph applies only if the minor has been charged with a felony.

(12) Within the affected county during a state of emergency resulting from a natural or human-made disaster proclaimed by the President of the United States or by the Governor pursuant to Section ~~8625 of the Government Code~~, 8625, extend the time period provided in Sections 334 and 657 of the Welfare and Institutions Code within which a hearing on a juvenile court petition shall be held by not more than 15 days, with the number of days to be designated by the Chairperson of the Judicial Council. This authorization shall be effective for 30 days unless it is extended by a new request and a new order. With regard to the time periods provided in Section 657 of the Welfare and Institutions Code, this paragraph applies only if the minor has been charged with a felony.

(b) If a circumstance specified in subdivision (a) threatens the orderly operation of superior court locations in more than one county, or in one or more court of appeal, or renders presence in, or access to, affected facilities unsafe, the Chairperson of the Judicial Council may, notwithstanding any other law, make one or more of the orders specified in subdivision (a) at the request of the Judicial Council.

(b)

(c) The limitations on extensions of time provided for in subdivision (a) and applicable to subdivision (b) set forth the maximum respective extensions

allowable from the time when the Chairperson of the Judicial Council makes a determination that circumstances warranting relief under this section exist. The limitations on extensions of time do not preclude the Chairperson of the Judicial Council, at the request of a presiding judge, judge as provided in subdivision (a), or at the request of the Judicial Council as provided in subdivision (b), from granting further extensions, up to the maximum permitted under the relevant paragraph, upon making a renewed determination that circumstances warranting relief under this section continue to exist.

(PU Amended by Stats. 2018, Ch. 201, Sec. 1. (SB 1208) Effective January 1, 2019.)

(PU Amended by Stats. 2018, Ch. 201, Sec. 1. (SB 1208) Effective January 1, 2019. | CODE COMPARE)

SEC. 2. (Start DF_21) This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to address the ongoing COVID-19 public health emergency at the earliest possible time by providing the necessary authority to the Chief Justice to modify court operations on a statewide basis, including after the current executive order is lifted, it is necessary that this act take effect immediately.

Amendment 3

On page 2, strike out lines 1 to 21, inclusive

(PU /RN20201096602)

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AMENDED IN ASSEMBLY MAY 14, 2020

SENATE BILL

No. 350

Introduced by Senator ~~Hertzberg~~ Hill
(Principal coauthors: Senators Dodd and McGuire)
(Principal coauthor: Assembly Member Holden)

February 19, 2019

~~An act to amend Sections 365.1 and 380 of the Public Utilities Code, relating to electricity. An act to amend Section 564 of, and to add Sections 568.6 and 1240.655 to, the Code of Civil Procedure, to add Article 10 (commencing with Section 63049.70) to Chapter 2 of Division 1 of Title 6.7 of the Government Code, and to amend Sections 748.1, 3289, and 3292 of, to amend and renumber Section 855 of, to add Sections 222.5, 713, and 1769 to, to add Article 7 (commencing with Section 1825) to Chapter 9 of Part 1 of Division 1 of, and to add Division 1.7 (commencing with Section 3400) to, the Public Utilities Code, relating to energy.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 350, as amended, ~~Hertzberg~~ Hill. ~~Electricity: resource adequacy: multiyear centralized resource adequacy mechanism. The Golden State Energy Act.~~

(1) Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations and gas corporations. Existing law authorizes the commission to fix just and reasonable rates and charges for public utilities.

Existing law authorizes the commission to petition a court to appoint a receiver when the commission determines, after notice and hearing, that a water or sewer system corporation is unable or unwilling to

adequately serve its ratepayers, has been actually or effectively abandoned by its owners, or is unresponsive to the commission's rules or orders.

This bill would authorize the commission to petition a court to appoint a receiver to assume possession of Pacific Gas and Electric Company's property and to operate its electrical and gas systems if the commission determines in a proceeding that the appointment of a receiver is warranted pursuant to the processes or procedures set forth in a specified commission investigation. The bill would authorize a court to appoint such a receiver and would require the receiver to control and operate Pacific Gas and Electric Company upon such terms and conditions as the court prescribes.

This bill would authorize the Governor, or the Governor's designee, to incorporate Golden State Energy as a nonprofit public benefit corporation for the purpose of owning, controlling, operating, or managing electrical and gas services for its ratepayers and for the benefit of all Californians. The bill would require the Governor to appoint Golden State Energy's 9-member initial board of directors, subject to confirmation by the Senate, and would require the initial board to amend Golden State Energy's bylaws to include procedures for the election of subsequent board members by Golden State Energy's customers, as specified.

This bill would expressly provide that Golden State Energy is a nonprofit public benefit corporation, subject to the regulatory authority of the commission as an electrical corporation and gas corporation, except as specified. The bill would require the commission, upon a specified event occurring, to initiate a proceeding to develop and adopt rules and processes to regulate Golden State Energy, including its rates, and implement policies pertaining to electrical and gas safety, wildfire mitigation, climate change mitigation and adaption, public purpose programs, and any other commission requirements applicable to an electrical corporation or gas corporation.

This bill would require Golden State Energy, in each general rate case or attrition year adjustment application, to apply for a revenue requirement sufficient to pay for operations and maintenance costs, pay for administrative and general expenses, service debt, pay the costs of commission approved capital expenditures not funded from debt, and fund and maintain necessary financial and operating reserves. The bill would require the commission, in each Golden State Energy general rate case or attrition year adjustment, to consider, modify if necessary,

and adopt a revenue requirement adequate to furnish and maintain efficient, just and reasonable service, instrumentalities, equipment, and facilities to promote the safety, health, comfort, and convenience of Golden State Energy's customers, employees, and the public, and to authorize Golden State Energy to issue debt as necessary to maintain and operate its assets consistent with the applicable revenue requirement.

Existing law authorizes a public utility to issue stocks and stock certificates or other evidence of interest or ownership, and bonds, notes, and other evidence of indebtedness for specified purposes, including for the acquisition of property.

This bill would authorize Golden State Energy to additionally issue debt to facilitate the acquisition of the property, as defined, of Pacific Gas and Electric Company, as specified.

Existing law authorizes specified parties, after an order or decision has been made by the commission, to apply for a rehearing, and prohibits a court action reviewing the order or decision unless the party has filed an application to the commission for a rehearing, as specified. Existing law authorizes any aggrieved party to petition for a writ of review in the court of appeal or the Supreme Court for the purpose of having the lawfulness of the original order or decision or of the order or decision on rehearing inquired into and determined, as specified.

This bill would authorize Golden State Energy or an aggrieved party, after the commission issues its decision on an application for a rehearing relating to the determination or implementation of rates and charges sufficient for Golden State Energy to satisfy its rate covenant and other revenue requirements, to petition for a writ of review in the California Supreme Court, rather than in the court of appeal or the Supreme Court, for the purposes of determining the lawfulness of the original order or decision or of the order or decision on the rehearing, as specified.

Existing law prohibits electrical corporations and gas corporations from recovering fines and penalties through rates approved by the commission.

This bill would exclude Golden State Energy from that prohibition.

Existing law authorizes electrical corporations and gas corporations to use eminent domain to acquire any property necessary for the construction and maintenance of their electric or gas plants.

This bill would authorize Golden State Energy to commence an eminent domain action to acquire Pacific Gas and Electric Company

if the commission determines that Pacific Gas and Electric Company's certificate of public convenience and necessity for the provision of electrical or gas service should be revoked pursuant to any processes or procedures adopted by the commission in a specified commission investigation. The bill would authorize Golden State Energy to take possession of Pacific Gas and Electric Company upon deposit in court, and prompt release, of an amount determined by the court to be the probable amount of just compensation.

Existing law provides mechanisms for electrical corporations to recover costs and expenses arising from covered wildfires, as defined, and establishes the Wildfire Fund to pay eligible claims arising from a covered wildfire. Existing law specifies the funding sources for the fund, which include, among other sources, contributions from electrical corporations and revenues generated from a specified charge imposed on the ratepayers of an electrical corporation.

This bill would authorize Golden State Energy to similarly participate in the fund following the closing of its acquisition of Pacific Gas and Electric Company, as specified.

The Bergeson-Peace Infrastructure and Economic Development Bank Act establishes the California Infrastructure and Economic Development Bank (I-Bank) in the Governor's Office of Business and Economic Development. Existing law, among other things, authorizes the I-Bank to make loans, issue bonds, and provide financial assistance for various types of projects that qualify as economic development or public development facilities.

This bill would specify that the financing of energy and project costs on behalf of Golden State Energy is in the public interest and eligible for financing by the I-Bank or by a special purpose trust, as specified. The bill would authorize the I-Bank to issue bonds and loan the proceeds to Golden State Energy, as specified. The bill would specify that bonds or other indebtedness issued pursuant to this financing do not constitute a debt or liability of the state or of any political subdivision of the state other than the I-Bank or the special purpose trust, and are payable solely from the funds of, and any security provided by, Golden State Energy.

This bill would provide that any and all Golden State Energy indebtedness, their transfer, and the payments or income therefrom are at all times free from income taxation of every kind by the state.

Existing law prohibits a public utility from purchasing or acquiring, any part of the capital stock of any other public utility without having

been first authorized to do so by the commission, as specified. Existing law prohibits a person or corporation from merging, acquiring, or controlling, either directly or indirectly, any public utility organized and doing business in this state without first securing authorization to do so from the commission.

This bill would exempt the acquisition of Pacific Gas and Electric Company by Golden State Energy from the above prohibitions if Golden State Energy, or its subsidiary, agrees to assume, take assignment of, and be bound by all collective bargaining agreements and related obligations, assume any obligations for funding under pension plans then in effect, and, in the event the transfer is made as part of Pacific Gas and Electric Company's and Pacific Gas and Electric Corporation's bankruptcy cases, adopt and be bound by the terms and provisions set forth in a specified reorganization plan.

(2) Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because certain of the above requirements would be a part of the act, and because a violation of an action of the commission implementing the above 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.

~~Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations. Existing law requires the commission, in consultation with the Independent System Operator, to establish resource adequacy requirements for all load-serving entities, including electrical corporations, electric service providers, and community choice aggregators, in accordance with specified objectives. Existing law further requires each load-serving entity to maintain physical generating capacity adequate to meet its load requirements, including peak demand and planning and operating reserves, deliverable to locations and at times as may be necessary to provide reliable electric service. Existing law authorizes the commission to consider a centralized resource adequacy mechanism, among other~~

options, to most efficiently and equitably meet specified resource adequacy objectives.

This bill would authorize the commission to consider a multiyear centralized resource adequacy mechanism, among other options, to most efficiently and equitably meet specified resource adequacy objectives.

Existing law requires the commission to authorize and facilitate direct transactions between electricity suppliers and retail end-use customers, but suspends direct transactions, except as expressly authorized. Existing law expressly requires the commission to authorize direct transactions for nonresidential end-use customers, subject to an annual maximum allowable total kilowatt-hour limit established, as specified, for each electrical corporation, to be achieved following a now-completed 3-to 5-year phase-in period.

If the commission authorizes or orders an electrical corporation to obtain generation resources that the commission determines are needed to meet system or local area reliability needs for the benefit of all customers in the electrical corporation's distribution service territory, existing law requires the commission to ensure that the net capacity costs of those generation resources are allocated on a fully nonbypassable basis consistent with specified departing load provisions and to ensure that those resources meet a system or local reliability need in a manner that benefits all customers of the electrical corporation. Existing law suspends this latter requirement if the commission approves a centralized resource adequacy mechanism.

This bill would suspend this requirement if the commission approves a multiyear resource adequacy mechanism, and only if the mechanism does not include a central procurement entity.

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

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

- 1 SECTION 1. Section 564 of the Code of Civil Procedure is
- 2 amended to read:
- 3 564. (a) A receiver may be appointed, in the manner provided
- 4 in this chapter, by the court in which an action or proceeding is
- 5 pending in any case in which the court is empowered by law to
- 6 appoint a receiver.

1 (b) A receiver may be appointed by the court in which an action
2 or proceeding is pending, or by a judge ~~thereof~~, *of that court*, in
3 the following cases:

4 (1) In an action by a vendor to vacate a fraudulent purchase of
5 property, or by a creditor to subject any property or fund to the
6 creditor's claim, or between partners or others jointly owning or
7 interested in any property or fund, on the application of the
8 plaintiff, or of any party whose right to or interest in the property
9 or fund, or the proceeds ~~thereof~~, *of the property or fund*, is
10 probable, and where it is shown that the property or fund is in
11 danger of being lost, removed, or materially injured.

12 (2) In an action by a secured lender for the foreclosure of a deed
13 of trust or mortgage and sale of property upon which there is a lien
14 under a deed of trust or mortgage, where it appears that the property
15 is in danger of being lost, removed, or materially injured, or that
16 the condition of the deed of trust or mortgage has not been
17 performed, and that the property is probably insufficient to
18 discharge the deed of trust or mortgage debt.

19 (3) After judgment, to carry the judgment into effect.

20 (4) After judgment, to dispose of the property according to the
21 judgment, or to preserve it during the pendency of an appeal, or
22 pursuant to the Enforcement of Judgments Law (Title 9
23 (commencing with Section 680.010)), or after sale of real property
24 pursuant to a decree of foreclosure, during the redemption period,
25 to collect, expend, and disburse rents as directed by the court or
26 otherwise provided by law.

27 (5) Where a corporation has been dissolved, as provided in
28 Section 565.

29 (6) Where a corporation is insolvent, or in imminent danger of
30 insolvency, or has forfeited its corporate rights.

31 (7) In an action of unlawful detainer.

32 (8) At the request of the Public Utilities Commission pursuant
33 to Section ~~855 1825~~ or ~~5259.5 1826~~ of the Public Utilities Code.

34 (9) In all other cases where necessary to preserve the property
35 or rights of any party.

36 (10) At the request of the Office of Statewide Health Planning
37 and Development, or the Attorney General, pursuant to Section
38 129173 of the Health and Safety Code.

39 (11) In an action by a secured lender for specific performance
40 of an assignment of rents provision in a deed of trust, mortgage,

1 or separate assignment document. The appointment may be
2 continued after entry of a judgment for specific performance if
3 appropriate to protect, operate, or maintain real property
4 encumbered by a deed of trust or mortgage or to collect rents
5 therefrom while a pending nonjudicial foreclosure under power
6 of sale in a deed of trust or mortgage is being completed.

7 (12) In a case brought by an assignee under an assignment of
8 leases, rents, issues, or profits pursuant to subdivision (g) of Section
9 2938 of the Civil Code.

10 (c) A receiver may be appointed, in the manner provided in this
11 chapter, including, but not limited to, Section 566, by the superior
12 court in an action brought by a secured lender to enforce the rights
13 provided in Section 2929.5 of the Civil Code, to enable the secured
14 lender to enter and inspect the real property security for the purpose
15 of determining the existence, location, nature, and magnitude of
16 any past or present release or threatened release of any hazardous
17 substance into, onto, beneath, or from the real property security.
18 The secured lender shall not abuse the right of entry and inspection
19 or use it to harass the borrower or tenant of the property. Except
20 in case of an emergency, when the borrower or tenant of the
21 property has abandoned the premises, or if it is impracticable to
22 do so, the secured lender shall give the borrower or tenant of the
23 property reasonable notice of the secured lender's intent to enter
24 and shall enter only during the borrower's or tenant's normal
25 business hours. Twenty-four hours' notice shall be presumed to
26 be reasonable notice in the absence of evidence to the contrary.

27 (d) Any action by a secured lender to appoint a receiver pursuant
28 to this section shall not constitute an action within the meaning of
29 subdivision (a) of Section 726.

30 (e) For purposes of this section:

31 (1) "Borrower" means the trustor under a deed of trust, or a
32 mortgagor under a mortgage, where the deed of trust or mortgage
33 encumbers real property security and secures the performance of
34 the trustor or mortgagor under a loan, extension of credit, guaranty,
35 or other obligation. The term includes any successor in interest of
36 the trustor or mortgagor to the real property security before the
37 deed of trust or mortgage has been discharged, reconveyed, or
38 foreclosed upon.

39 (2) "Hazardous substance" means any of the following:

1 (A) Any “hazardous substance” as defined in subdivision (h)
2 of Section 25281 of the Health and Safety Code.

3 (B) Any “waste” as defined in subdivision (d) of Section 13050
4 of the Water Code.

5 (C) Petroleum including crude oil or any fraction thereof, natural
6 gas, natural gas liquids, liquefied natural gas, or synthetic gas
7 usable for fuel, or any mixture thereof.

8 (3) “Real property security” means any real property and
9 improvements, other than a separate interest and any related interest
10 in the common area of a residential common interest development,
11 as the terms “separate interest,” “common area,” and “common
12 interest development” are defined in ~~Section~~ Sections 4095, 4100,
13 and 4185 of the Civil Code, or real property consisting of one acre
14 or less that contains 1 to 15 dwelling units.

15 (4) “Release” means any spilling, leaking, pumping, pouring,
16 emitting, emptying, discharging, injecting, escaping, leaching,
17 dumping, or disposing into the environment, including continuing
18 migration, of hazardous substances into, onto, or through soil,
19 surface water, or groundwater.

20 (5) “Secured lender” means the beneficiary under a deed of trust
21 against the real property security, or the mortgagee under a
22 mortgage against the real property security, and any successor in
23 interest of the beneficiary or mortgagee to the deed of trust or
24 mortgage.

25 *SEC. 2. Section 568.6 is added to the Code of Civil Procedure,*
26 *to read:*

27 *568.6. A receiver appointed at the request of the Public Utilities*
28 *Commission pursuant to Section 1825 of the Public Utilities Code*
29 *shall control and operate Pacific Gas and Electric Company upon*
30 *such terms and conditions as the court prescribes.*

31 *SEC. 3. Section 1240.655 is added to the Code of Civil*
32 *Procedure, to read:*

33 *1240.655. (a) If Golden State Energy commences an eminent*
34 *domain action to acquire Pacific Gas and Electric Company*
35 *property, including any franchise rights and stock, pursuant to*
36 *Section 713 of the Public Utilities Code, that acquisition is for a*
37 *more necessary public use pursuant to Section 1240.610.*

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

39 *(1) “Golden State Energy” has the same meaning as defined*
40 *in Section 222.5 of the Public Utilities Code.*

1 (2) “Pacific Gas and Electric Company” means Pacific Gas
2 and Electric Company, Pacific Gas and Electric Corporation, any
3 subsidiary or affiliate of the foregoing holding any assets related
4 to the provision of electrical or gas service within Pacific Gas and
5 Electric Company’s service territory, and any successor to any of
6 the foregoing.

7 SEC. 4. Article 10 (commencing with Section 63049.70) is
8 added to Chapter 2 of Division 1 of Title 6.7 of the Government
9 Code, to read:

10
11 Article 10. Golden State Energy Financing

12
13 63049.70. (a) Notwithstanding this division, the financing of
14 energy and project costs on behalf of Golden State Energy, as
15 defined in Section 222.5 of the Public Utilities Code, shall be
16 deemed to be in the public interest and eligible for financing by
17 the bank or by a special purpose trust established pursuant to this
18 division. That financing shall be treated as financing of an
19 economic development facility for purposes of this division, except
20 that Article 3 (commencing with Section 63040) and Article 5
21 (commencing with Section 63043) shall not apply to any financing
22 undertaken on behalf of Golden State Energy.

23 (b) The bank may issue bonds pursuant to Chapter 5
24 (commencing with Section 63070) and may loan the proceeds
25 thereof to Golden State Energy, and deposit the proceeds into a
26 separate account, or use the proceeds to refund bonds previously
27 issued under this article. Bond proceeds may also be used to fund
28 necessary reserves, capitalized interest, credit enhancement costs,
29 or costs of issuance.

30 (c) Bonds or other indebtedness issued pursuant to this article
31 shall not be deemed to constitute a debt or liability of the state or
32 of any political subdivision of the state other than the bank or any
33 special purpose trust established pursuant to this division, but
34 shall be payable solely from the funds of, and any security provided
35 by, Golden State Energy.

36 SEC. 5. Section 222.5 is added to the Public Utilities Code, to
37 read:

38 222.5. “Golden State Energy” means the nonprofit public
39 benefit corporation that is incorporated and operating pursuant
40 to Division 1.7 (commencing with Section 3400).

1 *SEC. 6. Section 713 is added to the Public Utilities Code, to*
2 *read:*

3 713. (a) (1) *If the commission determines that Pacific Gas*
4 *and Electric Company's certificate of public convenience and*
5 *necessity for the provision of electrical or gas service should be*
6 *revoked pursuant to any processes or procedures adopted by the*
7 *commission in its Investigation 19-09-016, Golden State Energy*
8 *may commence an eminent domain action to acquire Pacific Gas*
9 *and Electric Company property.*

10 (2) *Golden State Energy may take possession of Pacific Gas*
11 *and Electric Company property upon deposit in court, and prompt*
12 *release, of an amount determined by the court to be the probable*
13 *amount of just compensation.*

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

15 (1) *"Investigation 19-09-016" means Investigation 19-09-016*
16 *(September 26, 2019) Order Instituting Investigation on the*
17 *Commission's Own Motion to Consider the Ratemaking and Other*
18 *Implications of a Proposed Plan for Resolution of Voluntary Case*
19 *filed by Pacific Gas and Electric Company Pursuant to Chapter*
20 *11 of the Bankruptcy Code, in the United States Bankruptcy Court,*
21 *Northern District of California, San Francisco Division, In re*
22 *Pacific Gas and Electric Corporation and Pacific Gas and Electric*
23 *Company, Case No. 19-30088.*

24 (2) *"Pacific Gas and Electric Company" means Pacific Gas*
25 *and Electric Company, Pacific Gas and Electric Corporation, any*
26 *subsidiary or affiliate of the foregoing holding any assets related*
27 *to the provision of electrical or gas service within Pacific Gas and*
28 *Electric Company's service territory, and any successor to any of*
29 *the foregoing.*

30 (3) *"Property" has the same meaning as defined in Section*
31 *1235.170 of the Code of Civil Procedure, including any franchise*
32 *rights and stock.*

33 *SEC. 7. Section 748.1 of the Public Utilities Code is amended*
34 *to read:*

35 748.1. ~~An~~ *Except for Golden State Energy, an electrical*
36 *corporation or gas corporation shall not ~~recover~~ recover, through*
37 *a rate approved by the ~~commission~~ commission, a fine or penalty.*

38 *SEC. 8. Section 855 of the Public Utilities Code is amended*
39 *and renumbered to read:*

1 ~~855.~~

2 1826. Whenever the commission determines, after notice and
3 hearing, that any water or sewer system corporation is unable or
4 unwilling to adequately serve its ~~ratepayers or ratepayers~~, has been
5 actually or effectively abandoned by its owners, or is unresponsive
6 to the ~~the~~ rules or orders of the commission, the commission may
7 petition the superior court for the county within which the
8 corporation has its principal office or place of business for the
9 appointment of a receiver to assume possession of its property and
10 to operate its system upon such terms and conditions as the court
11 shall prescribe. The court may require, as a condition to the
12 appointment of ~~such~~ the receiver, that a sufficient bond be given
13 by the receiver and conditioned upon compliance with the orders
14 of the court and the commission, and the protection of all property
15 rights involved. The court shall provide for disposition of the
16 facilities and system in like manner as any other receivership
17 proceeding in this state.

18 SEC. 9. Section 1769 is added to the Public Utilities Code, to
19 read:

20 1769. (a) The following procedures shall apply to judicial
21 review of an order or decision of the commission interpreting,
22 implementing, or applying the provisions of Section 3434 that
23 relates to the determination or implementation of rates and charges
24 sufficient for Golden State Energy to satisfy its rate covenant and
25 other revenue requirements.

26 (b) If Golden State Energy or an aggrieved party files an
27 application for rehearing pursuant to Article 2 (commencing with
28 Section 1731), within 30 days after the commission issues its order
29 or decision denying an application for a rehearing or, if the
30 application is granted, within 30 days after the commission issues
31 its decision on rehearing, Golden State Energy or an aggrieved
32 party may petition for a writ of review in the California Supreme
33 Court for the purpose of determining the lawfulness of the original
34 order or decision or of the order or decision on the rehearing. If
35 the writ is issued, it shall be made returnable at a time and place
36 specified by court order and shall direct the commission to certify
37 its record in the case to the court within the time specified. An
38 order of the commission interpreting, implementing, or applying
39 the provisions of Section 3434 shall not be subject to review in the
40 court of appeal.

1 (c) The petition for review shall be served upon the commission's
2 executive director and general counsel either personally or by
3 service at the office of the commission.

4 (d) For purposes of this section, the issuance of a decision or
5 the granting of an application shall be construed to have occurred
6 on the date when the commission mails the decision or grant to
7 the parties of the action or proceeding.

8 (e) (1) To the extent that the provisions do not conflict, this
9 article's provisions shall apply to a writ brought pursuant to this
10 section.

11 (2) Section 1766 shall apply to any order issued by the Supreme
12 Court pursuant to this section.

13 SEC. 10. Article 7 (commencing with Section 1825) is added
14 to Chapter 9 of Part 1 of Division 1 of the Public Utilities Code,
15 to read:

16
17 Article 7. Receiverships
18

19 1825. (a) If the commission determines in a proceeding that
20 the appointment of a receiver is warranted pursuant to the
21 processes or procedures adopted by the commission in its
22 Investigation 19-09-016, the commission may petition the superior
23 court for the county within which Pacific Gas and Electric
24 Corporation has its principal office or place of business for the
25 appointment of a receiver, as provided in paragraph (8) of
26 subdivision (b) of Section 564 of the Code of Civil Procedure, to
27 assume possession of Pacific Gas and Electric Company's property
28 and to operate its system.

29 (b) For purposes of this section, both of the following definitions
30 apply:

31 (1) "Investigation 19-09-016" means Investigation 19-09-016
32 (September 26, 2019) Order Instituting Investigation on the
33 Commission's Own Motion to Consider the Ratemaking and Other
34 Implications of a Proposed Plan for Resolution of Voluntary Case
35 filed by Pacific Gas and Electric Company Pursuant to Chapter
36 11 of the Bankruptcy Code, in the United States Bankruptcy Court,
37 Northern District of California, San Francisco Division, In re
38 Pacific Gas and Electric Corporation and Pacific Gas and Electric
39 Company, Case No. 19-30088.

(2) “Pacific Gas and Electric Company” means Pacific Gas and Electric Company, Pacific Gas and Electric Corporation, any subsidiary or affiliate of the foregoing holding any assets related to the provision of electrical or gas service within Pacific Gas and Electric Company’s service territory, and any successor to any of the foregoing.

SEC. 11. Section 3289 of the Public Utilities Code is amended to read:

3289. (a) (1) No later than July 26, 2019, the commission shall initiate a rulemaking proceeding to consider using its authority pursuant to Section 701 to require each electrical corporation, except a regional electrical corporation that chooses not to participate in any fund pursuant to Chapter 3 (commencing with Section 3291), to collect a nonbypassable charge from ratepayers of the electrical corporation to support the fund, including the payment of any bonds issued pursuant to Division 28 (commencing with Section 80500) of the Water Code, as follows:

(A) For a large electrical corporation, a charge in an amount sufficient to fund the revenue requirement, as established pursuant to Section 80524 of the Water Code.

(B) For a regional electrical corporation, the amount equal to one-half cent per kilowatt-hour (\$0.005/kWh).

(2) If the commission determines that the imposition of the charge described in paragraph (1) is just and reasonable, and that it is appropriate to exercise its authority pursuant to Section 701 to do so, the commission shall direct each electrical corporation to impose and collect that charge commencing in the month immediately following the month in which the final imposition of the revenue requirement with respect to bonds previously issued pursuant to Division 27 (commencing with Section 80000) of the Water Code is made. The charge shall be collected in the same manner as that for the payments made to reimburse the Department of Water Resources pursuant to Division 27 (commencing with Section 80000) of the Water Code.

(b) Notwithstanding any other law, no later than 90 days after the initiation of the rulemaking proceeding, the commission shall adopt a decision regarding the imposition of the charge.

(c) Notwithstanding Section 455.5 or 1708, or any other law, the commission shall not revise, amend, or otherwise modify a

1 decision to impose a charge made pursuant to this section at any
2 time ~~prior to~~ before January 1, 2036.

3 *(d) If the administrator authorizes Golden State Energy to*
4 *participate in the fund pursuant to subdivision (d) of Section 3292,*
5 *Golden State Energy's ratepayers shall be subject to the*
6 *nonbypassable charge previously imposed by the commission*
7 *pursuant to this section.*

8 *SEC. 12. Section 3292 of the Public Utilities Code is amended*
9 *to read:*

10 3292. (a) If, no later than July 27, 2019, each large electrical
11 corporation not subject to an insolvency proceeding on July 12,
12 2019, notifies the commission of its commitment to provide the
13 initial contribution and the annual contributions, and subsequently
14 provides its initial contribution as set forth in paragraph (3) of
15 subdivision (b), the fund shall be established to pay eligible claims
16 as set forth in subdivision (f) and obtain reimbursement from
17 electrical corporations as set forth in subdivision (h).

18 (b) Except as provided in subdivision (d), to participate in the
19 fund established pursuant to subdivision (a), an electrical
20 corporation shall satisfy the following conditions by no later than
21 June 30, 2020:

22 (1) The electrical corporation is not, and has not been since July
23 12, 2019, the subject of an insolvency proceeding or on criminal
24 probation unless the electrical corporation meets the following
25 conditions:

26 (A) The electrical corporation's insolvency proceeding has been
27 resolved pursuant to a plan or similar document not subject to a
28 stay.

29 (B) The bankruptcy court or a court of competent jurisdiction,
30 in the insolvency proceeding, has determined that the resolution
31 of the insolvency proceeding provides funding or establishes
32 reserves for, provides for assumption of, or otherwise provides for
33 satisfying any prepetition wildfire claims asserted against the
34 electrical corporation in the insolvency proceeding in the amounts
35 agreed upon in any pre-insolvency proceeding settlement
36 agreements or any post-insolvency settlement agreements,
37 authorized by the court through an estimation process or otherwise
38 allowed by the court.

39 (C) The commission has approved the reorganization plan and
40 other documents resolving the insolvency proceeding, including

1 the electrical corporation's resulting governance structure as being
2 acceptable in light of the electrical corporation's safety history,
3 criminal probation, recent financial condition, and other factors
4 deemed relevant by the commission.

5 (D) The commission has determined that the reorganization
6 plan and other documents resolving the insolvency proceeding are
7 (i) consistent with the state's climate goals as required pursuant
8 to the California Renewables Portfolio Standard Program and
9 related procurement requirements of the state and (ii) neutral, on
10 average, to the ratepayers of the electrical corporation.

11 (E) The commission has determined that the reorganization plan
12 and other documents resolving the insolvency proceeding recognize
13 the contributions of ratepayers, if any, and compensate them
14 accordingly through mechanisms approved by the commission,
15 which may include sharing of value appreciation.

16 (2) For a regional electrical corporation, it has voluntarily
17 established a charge required by the commission pursuant to
18 Section 3289. This charge shall be included on monthly bills for
19 customers. Collections on that charge shall be remitted, on a
20 monthly basis, to the administrator for deposit into the fund.

21 (3) Except as provided in subdivision (e), the electrical
22 corporation has provided its initial contribution to the fund no later
23 than September 10, 2019. Initial contributions shall not be
24 recovered from the ratepayers of an electrical corporation.
25 *corporation, except Golden State Energy.*

26 (c) Each participating electrical corporation shall make its annual
27 contribution by January 1 of each calendar year, including, without
28 limitation, any annual contributions for calendar years in which
29 the electrical corporation, or another electrical corporation to
30 which the electrical corporation is the successor, was not a
31 participating electrical corporation. Annual contributions shall not
32 be recovered from the ratepayers of an electrical corporation.
33 *corporation, except Golden State Energy.*

34 (d) (1) The administrator ~~may~~ *may, and in the case of Golden*
35 *State Energy shall,* authorize an electrical corporation that is
36 formed after July 12, 2019, to participate in the fund if the
37 administrator determines that the electrical corporation meets the
38 requirements of this section. Authorization of an electrical
39 corporation that is formed after July 12, 2019, shall be effective

1 as of a date determined by the administrator and shall apply to
2 covered wildfires after the date of authorization.

3 *(2) If Golden State Energy is the successor to Pacific Gas and*
4 *Electric Company and Pacific Gas and Electric Company made*
5 *its initial contribution and, if applicable, annual contributions to*
6 *the fund, the administrator shall not require Golden State Energy*
7 *to commit to making, or make, its own initial contribution, or*
8 *annual contributions for a period for which Pacific Gas and*
9 *Electric Company already made its annual contributions, in order*
10 *to participate in the fund and the administrator shall authorize*
11 *Golden State Energy to participate in the fund if Golden State*
12 *Energy, within 15 days of closing of the acquisition of Pacific Gas*
13 *and Electric Company, notifies the commission of its commitment*
14 *to make annual contributions to the fund.*

15 (e) An electrical corporation that is the subject of an insolvency
16 proceeding on July 12, 2019, that wishes to participate in the fund
17 shall (1) no later than July 27, 2019, provide written notification
18 to the commission of its election to participate in the fund, and (2)
19 no later than September 10, 2019, obtain approval from the
20 bankruptcy court or a court of competent jurisdiction of its
21 determination to pay, and approval of its payment of, the initial
22 contribution and, as they become due, annual contributions to the
23 fund, provided that the contributions shall not be due to the fund
24 until the date the electrical corporation exits the insolvency
25 proceeding. The electrical corporation shall not be entitled to seek
26 payments from the fund pursuant to subdivision (f) until it has
27 funded its initial contribution and has met the other conditions
28 provided in subdivision (b). Participation of an electrical
29 corporation that is the subject of an insolvency proceeding that
30 satisfies the requirements of this subdivision shall be effective as
31 of July 12, 2019, and shall apply to covered wildfires, provided
32 that the fund shall not pay more than 40 percent of the allowed
33 amount of a claim arising between July 12, 2019, and the date the
34 electrical corporation exits bankruptcy, with the balance of those
35 claims being addressed through the insolvency proceeding.

36 (f) (1) An electrical corporation meeting the applicable
37 requirements of subdivision (b) may seek payment from the fund
38 to satisfy settled or finally adjudicated eligible claims. Only eligible
39 claims shall be made against or paid by the fund. In accordance
40 with the procedures established by the administrator, the

1 administrator shall review and approve any settlement of an eligible
2 claim as being in the reasonable business judgment of the electrical
3 corporation before releasing funds to the electrical corporation for
4 payment. Settlements of subrogation claims that are less than or
5 equal to 40 percent of total asserted claim value as determined by
6 the administrator shall be paid unless the administrator finds that
7 the exceptional facts and circumstances surrounding the underlying
8 claim do not justify the electrical corporation's exercise of such
9 business judgment. To the extent approved by the administrator,
10 a settlement shall not be subject to further review by the
11 commission.

12 (2) The administrator shall approve a settlement of an eligible
13 claim that is a subrogation claim if the settlement exceeds 40
14 percent of the total asserted claim value, as determined by the
15 administrator, and includes a full release of the balance of the
16 asserted claim so long as the administrator finds that the electrical
17 corporation exercised its reasonable business judgment in
18 determining to settle for a higher percentage or on different terms
19 based on a determination that the specific facts and circumstances
20 surrounding the underlying claim justify a higher settlement
21 percentage or different terms. A subrogation claim that is finally
22 adjudicated shall be paid in the full judgment amount.

23 (g) ~~All~~ Except for Golden State Energy, all initial and annual
24 contributions shall be excluded from the measurement of the
25 authorized capital structure.

26 (h) (1) Except as provided in paragraph (2), within six months
27 after the commission adopts a decision in an application filed
28 pursuant to Section 1701.8, the electrical corporation shall
29 reimburse the fund for the full amount of costs and expenses the
30 commission determined were disallowed pursuant to Section
31 1701.8.

32 (2) (A) The obligation of an electrical corporation to reimburse
33 the fund shall be the lesser amount of subparagraph (B) or (C).

34 (B) The costs and expenses ~~disallowed~~ *determined not to be*
35 *just and reasonable* pursuant to Section 1701.8.

36 (C) The amount determined pursuant to clause (i) minus the
37 amount determined pursuant to clause (ii).

38 (i) ~~Twenty~~ (I) Except as specified in subclause (II), for each
39 electrical corporation, 20 percent of the electrical corporation's
40 total transmission and distribution equity rate base, including, but

1 not limited to, its Federal Energy Regulatory Commission (FERC)
2 assets, as determined by the administrator for the calendar year in
3 which the disallowance occurred.

4 *(II) For Golden State Energy's first twelve months of*
5 *participation in the fund, an amount equal to 20 percent of Pacific*
6 *Gas and Electric Company's total transmission and distribution*
7 *equity rate base, including, but not limited to, its Federal Energy*
8 *Regulatory Commission assets, at the time of the closing of the*
9 *acquisition of Pacific Gas and Electric Company, as determined*
10 *by the commission. For Golden State Energy's subsequent years*
11 *of participation in the fund, an amount determined by the*
12 *commission that is equivalent to the amount specified in subclause*
13 *(I) for electrical corporations with an equity rate base.*

14 (ii) The sum of (I) the amounts actually reimbursed to the fund
15 for costs and expenses that were ~~disallowed~~ *determined not to be*
16 *just and reasonable* pursuant to Section 1701.8 during the
17 measurement period, added to (II) the amount of any
18 reimbursements to the fund owed by the electrical corporation for
19 costs and expenses disallowed during the measurement period that
20 have not yet been paid.

21 (iii) For purposes of this subparagraph, "measurement period"
22 means the period of three consecutive calendar years ending on
23 December 31 of the year in which the calculation is being
24 performed.

25 (D) The administrator shall publish calculations of the amounts
26 determined pursuant to subparagraphs (B) and (C) on or before
27 January 1 of each calendar year for each electrical corporation.

28 (E) Except as provided in paragraph (3), the electrical
29 corporation shall not be required to reimburse the fund for any
30 additional amounts in any three-calendar-year period.

31 (F) The limitation set forth in this section shall apply only so
32 long as the fund has not been terminated pursuant to subdivision
33 (i).

34 (3) Paragraph (2) does not apply under either of the following
35 circumstances:

36 (A) If the administrator determines that the electrical
37 corporation's actions or inactions that resulted in the covered
38 wildfire constituted conscious or willful disregard of the rights
39 and safety of others.

1 (B) If the electrical corporation ~~fails~~ *failed* to maintain a valid
2 safety certification on the date of the ignition.

3 (i) (1) The administrator shall, to the extent practicable, manage
4 the fund to prioritize the use of ~~contributions of the electrical~~
5 ~~corporations~~ *corporation contributions* before the use of
6 ~~contributions by ratepayers~~ *ratepayer contributions*.

7 (2) The fund shall terminate when the administrator determines
8 that the fund resources are exhausted, taking into account the
9 amount of any unpaid liabilities including necessary reserves, any
10 remaining unpaid annual contributions from participating electrical
11 corporations, and the charges authorized pursuant to Section 3289.
12 Upon the determination of the administrator that the fund shall be
13 terminated, the administrator shall pay all remaining eligible claims
14 and fund expenses, and liquidate any remaining assets. The
15 remaining funds shall be transferred to the General Fund. It is the
16 intent of the Legislature that any funds transferred to the General
17 Fund pursuant to this paragraph shall be appropriated to support
18 wildfire mitigation.

19 (j) Notwithstanding subdivision (f), a regional electrical
20 corporation's access to the fund to pay eligible claims shall be
21 limited to three times the sum of the regional electrical
22 corporation's initial contribution and any funded annual
23 contributions per covered wildfire.

24 ~~(k) This section shall become inoperative if timely payment of~~
25 ~~the initial contribution is not made pursuant to paragraph (3) of~~
26 ~~subdivision (b) by each large electrical corporation not subject to~~
27 ~~an insolvency proceeding on July 12, 2019, and is repealed on the~~
28 ~~first January 1 more than three months after the initial contributions~~
29 ~~are due but not all paid. The administrator shall notify the Secretary~~
30 ~~of State as to whether those payments were timely made.~~

31 *SEC. 13. Division 1.7 (commencing with Section 3400) is added*
32 *to the Public Utilities Code, to read:*

DIVISION 1.7. GOLDEN STATE ENERGY ACT

PART 1. GENERAL PROVISIONS

CHAPTER 1. PRELIMINARY MATTERS

3400. *This division shall be known, and may be cited, as the Golden State Energy Act.*

3401. *(a) The Legislature finds and declares all of the following:*

(1) The safe, efficient, and reliable generation, procurement, transmission, distribution, and storage of energy for residents and businesses in California is essential for living and doing business in California. The economic strength and productivity of California and its residents require the availability of energy with which to operate their businesses and live safely in their homes.

(2) Californians residing, working, or doing business within Pacific Gas and Electric Company's service territory deserve to be served by a utility that prioritizes operational safety and efficiency, is prudently managed and soundly financed, and has a capital structure that enables it to make critical safety investments.

(3) The Legislature recognizes that Pacific Gas and Electric Company may meet the requirements of Chapter 79 of the Statutes of 2019 and emerge from bankruptcy as a transformed utility that is positioned to provide Californians with access to safe, reliable, and affordable service.

(4) The purpose of this division is to ensure that if Pacific Gas and Electric Company fails to emerge from bankruptcy as a transformed utility, then Golden State Energy is duly empowered to serve in that critical role.

(5) It is the intent of the Legislature that Golden State Energy act pursuant to this division only in the event that a transformed utility does not emerge from the bankruptcy or the transformed utility fails to meet its duty to provide safe, reliable, and affordable energy services.

(6) It is the intent of the Legislature that the commission regulate Golden State Energy as an electrical and gas corporation, except that the commission should recognize its status as a nonprofit public benefit corporation, which does not have shareholders and

operates for its customers and for the benefit of the people of California. Due to this difference, it is necessary to establish alternative procedures for Golden State Energy.

3402. It is the intent of the Legislature that all of the following occur if Golden State Energy commences energy operations:

(a) The operation of Golden State Energy, as the successor to Pacific Gas and Electric Company, will be for the benefit of its customers and will lessen the burdens on the State of California. The purpose of any acquisition of Pacific Gas and Electric Company's property, including franchise rights and stock, pursuant to this division is to provide more reliable energy services with greater attention on public safety.

(b) Golden State Energy should take into account rate impacts on all customer classes and manage its operations to benefit customers throughout its entire service territory.

(c) Golden State Energy should manage its operations to best benefit the public that it serves, demonstrating leadership in the delivery of safe, reliable, clean, affordable energy.

(d) Golden State Energy should adopt procedures to encourage the election of board members who collectively reflect attributes, expertise, and experience relevant to the operation of a safe and reliable utility.

CHAPTER 2. DEFINITIONS

3410. Unless the context otherwise requires, the definitions set forth in this chapter govern the construction of this division.

3411. "Act" means the Golden State Energy Act.

3411.5. "Acquisition of Pacific Gas and Electric Company" means the acquisition of the property, as defined in Section 1235.170 of the Code of Civil Procedure, including any franchise rights and stock, of Pacific Gas and Electric Company, including by eminent domain.

3412. "Board" means Golden State Energy's board of directors described in Part 2 (commencing with Section 3420).

3415. "Indebtedness" means bonds, notes, commercial paper, variable rate and variable maturity securities, other obligations, and any other evidences of indebtedness issued by Golden State Energy.

1 3415.5. “Investigation 19-09-016” means commission
2 Investigation 19-09-016 (September 26, 2019) Order Instituting
3 Investigation on the Commission’s Own Motion to Consider the
4 Ratemaking and Other Implications of a Proposed Plan for
5 Resolution of Voluntary Case filed by Pacific Gas and Electric
6 Company Pursuant to Chapter 11 of the Bankruptcy Code, in the
7 United States Bankruptcy Court, Northern District of California,
8 San Francisco Division, In re Pacific Gas and Electric Corporation
9 and Pacific Gas and Electric Company, Case No. 19-30088.

10 3416. “Pacific Gas and Electric Company” means Pacific Gas
11 and Electric Company, Pacific Gas and Electric Corporation, any
12 subsidiary or affiliate of the foregoing holding any assets related
13 to the provision of electrical or gas service within Pacific Gas and
14 Electric Company’s service territory, and any successor to any of
15 the foregoing.

16 3417. “Pacific Gas and Electric Company’s service territory”
17 means the boundaries and specifications of the company’s service
18 territory on the date of the closing of the acquisition of Pacific
19 Gas and Electric Company.

20 3418. “Wildfire Fund” means the Wildfire Fund created
21 pursuant to Section 3284.

22
23 PART 2. GOLDEN STATE ENERGY BOARD GOVERNANCE
24

25 3420. (a) The Governor, or the Governor’s designee, may
26 incorporate Golden State Energy as a nonprofit public benefit
27 corporation pursuant to the Nonprofit Public Benefit Corporation
28 Law (Part 2 (commencing with Section 5110) of Division 2 of Title
29 1 of the Corporations Code) for the purpose of owning, controlling,
30 operating, or managing electrical and gas services for its
31 ratepayers and for the benefit of all Californians.

32 (b) (1) Golden State Energy’s initial board of directors shall
33 consist of nine members.

34 (2) The initial board members shall be appointed by the
35 Governor, subject to confirmation by the Senate. Of the initial
36 board members, three board members shall initially serve two-year
37 terms, three board members shall initially serve four-year terms,
38 and three board members shall initially serve six-year terms.

1 (3) (A) *The initial board of directors shall amend Golden State*
2 *Energy's bylaws to include procedures for the election of*
3 *subsequent board members by Golden State Energy's customers.*

4 (B) *These election procedures shall include all of the following:*

5 (i) *Nominations based on a skills matrix.*

6 (ii) *Measures to maximize board member diversity and the*
7 *selection of California residents.*

8 (iii) *Selection by the board, or a committee of the board, of a*
9 *slate of candidates for election using search firms to identify,*
10 *evaluate, and recommend the most qualified candidates for*
11 *election.*

12 (iv) *Incorporation of stakeholder input into the board selection*
13 *process.*

14 (4) *Upon the amendment of Golden State Energy's bylaws*
15 *pursuant to paragraph (3), the board shall submit the amended*
16 *bylaws to the Governor and the Legislature.*

17
18 **PART 3. GOLDEN STATE ENERGY REGULATION AND**
19 **OVERSIGHT**
20

21 3430. (a) *Except as otherwise provided in this division, the*
22 *Nonprofit Public Benefit Corporation Law (Part 2 (commencing*
23 *with Section 5110) of Division 2 of Title 1 of the Corporations*
24 *Code) shall apply to Golden State Energy, and Golden State*
25 *Energy shall have all the powers of a nonprofit public benefit*
26 *corporation formed pursuant to that part.*

27 (b) *Golden State Energy is an electrical corporation and gas*
28 *corporation subject to the regulatory authority of the commission*
29 *as such, except as otherwise provided in this division.*

30 (c) *Insofar as this division is inconsistent with any other law,*
31 *including the Nonprofit Public Benefit Corporation Law (Part 2*
32 *(commencing with Section 5110) of Division 2 of Title 1 of the*
33 *Corporations Code), this division shall prevail.*

34 (d) *Insofar as there is overlap in the application of oversight*
35 *authority over Golden State Energy, including between the*
36 *commission and the Attorney General, the commission's authority*
37 *shall prevail.*

38 3432. (a) *Golden State Energy shall be exempt from the*
39 *Attorney General's supervisory authority described in each of the*
40 *following provisions:*

1 (1) Paragraph (5) of subdivision (a) of Section 5142 of the
2 Corporations Code.

3 (2) Section 5250 of the Corporations Code.

4 (3) Section 5813.5 of the Corporations Code.

5 (4) Section 5913 of the Corporations Code.

6 (5) Section 6010 of the Corporations Code.

7 (6) Chapter 15 (commencing with Section 6510) of Part 2 of
8 Division 2 of Title 1 of the Corporations Code.

9 (7) Section 6611 of the Corporations Code.

10 (8) Section 6612 of the Corporations Code.

11 (9) Sections 6615 to 6617, inclusive, of the Corporations Code.

12 (10) The Supervision of Trustees and Fundraisers for Charitable
13 Purposes Act (Article 7 (commencing with Section 12580) of
14 Chapter 6 of Part 2 of Division 3 of Title 2 of the Government
15 Code).

16 (b) Golden State Energy shall not be required to give notice to
17 the Attorney General pursuant to the Nonprofit Public Benefit
18 Corporation Law (Part 2 (commencing with Section 5110) of
19 Division 2 of Title 1 of the Corporations Code).

20 3433. A person who, pursuant to a specific provision of Golden
21 State Energy's articles or bylaws, has the right to vote for the
22 election of a director, on a disposition of all or substantially all
23 of the assets of a corporation, on a merger, or on a dissolution,
24 shall not be a member of Golden State Energy for purposes of the
25 Nonprofit Public Benefit Corporation Law (Part 2 (commencing
26 with Section 5110) of Division 2 of Title 1 of the Corporations
27 Code), unless the articles or bylaws designate the person as a
28 member.

29 3434. (a) In addition to the purposes described in Section 817,
30 Golden State Energy may issue debt to facilitate the acquisition
31 of Pacific Gas and Electric Company consistent with this section.

32 (b) Golden State Energy may provide a rate covenant to all of
33 its debt holders, including holders of debt issued to facilitate the
34 acquisition of Pacific Gas and Electric Company.

35 (c) Before issuing debt pursuant to this section, Golden State
36 Energy shall submit an application to the commission for the
37 authority to do so pursuant to Section 818. Notwithstanding Section
38 819, with respect to debt issued to facilitate the acquisition of
39 Pacific Gas and Electric Company, the commission shall issue an
40 order resolving the application within 100 days of the application's

1 *submittal. Notwithstanding subdivision (d) of Section 311 and any*
2 *other law, with respect to debt issued to facilitate the acquisition*
3 *of Pacific Gas and Electric Company, the commission may issue*
4 *an order resolving the application not sooner than 15 days*
5 *following the filing and service of the proposed decision by the*
6 *assigned commissioner or the administrative law judge or the*
7 *filing of any alternate decision pursuant to Section 311.*

8 *(d) Pursuant to the rate covenant, in each general rate case or*
9 *attrition year adjustment application, Golden State Energy shall*
10 *apply for a revenue requirement sufficient to do all of the*
11 *following:*

12 *(1) Pay for operations and maintenance costs, and*
13 *administrative and general expenses.*

14 *(2) Service debt and satisfy any debt service coverage margin*
15 *associated with the rate covenant's requirements for debt, or for*
16 *the refinancing of that debt, (A) issued to fund the formation of*
17 *Golden State Energy and to acquire Pacific Gas and Electric*
18 *Company, (B) issued by Golden State Energy between the*
19 *acquisition of Pacific Gas and Electric Company and the approval*
20 *of Golden State Energy's first general rate case application, and*
21 *(C) approved by the commission pursuant to a general rate case*
22 *application filed by Golden State Energy, including for compliance*
23 *with the regulatory requirements described in subdivision (f).*

24 *(3) Pay the costs of commission approved capital expenditures*
25 *not funded from debt.*

26 *(4) Fund and maintain necessary financial and operating*
27 *reserves.*

28 *(e) Concurrent with each general rate case or attrition year*
29 *application, Golden State Energy shall file with the commission*
30 *a debt issuance and retirement forecast summarizing the*
31 *prospective estimated necessary debt issuance and estimated debt*
32 *repayment during the term of the general rate case and the*
33 *additional revenue requirement necessary to meet the rate*
34 *covenant's requirements taking into account any additional debt*
35 *issuance and repayment.*

36 *(f) In each Golden State Energy general rate case or attrition*
37 *year adjustment, the commission shall do both of the following:*

38 *(1) Consider, modify if necessary, and adopt a revenue*
39 *requirement adequate to furnish and maintain efficient, just and*
40 *reasonable service, instrumentalities, equipment, and facilities to*

1 *promote the safety, health, comfort, and convenience of its*
2 *customers, employees, and the public. The commission shall only*
3 *approve just and reasonable rates; however, in no event shall the*
4 *commission set the revenue requirement below the amount*
5 *necessary to satisfy the rate covenant's requirements.*

6 *(2) Authorize Golden State Energy to issue debt as necessary*
7 *to maintain and operate its assets consistent with the revenue*
8 *requirement approved by the commission for the applicable period*
9 *of the general rate case.*

10 *(g) (1) No later than 45 days after (A) the earliest occurrence*
11 *of a material bankruptcy event described in paragraph (2), (B)*
12 *the commission determines that Pacific Gas and Electric*
13 *Company's certificate of public convenience and necessity for the*
14 *provision of electrical or gas service should be revoked pursuant*
15 *to any processes or procedures adopted by the commission in its*
16 *Investigation 19-09-016, or (C) the initiation by Pacific Gas and*
17 *Electric Company of a sale process for its assets or stock, the*
18 *commission shall initiate a proceeding to develop and adopt rules*
19 *and processes to regulate Golden State Energy, including its rates,*
20 *and implement policies pertaining to electrical and gas safety,*
21 *wildfire mitigation, climate change mitigation and adaption, public*
22 *purpose programs, and any other commission requirements*
23 *applicable to an electrical corporation or gas corporation.*

24 *(2) For purposes of this subdivision, each of the following is a*
25 *material bankruptcy event:*

26 *(A) Termination of "Tort Claimants Committee Restructuring*
27 *Support Agreement" (as amended) (Case 19-30088; Document*
28 *No. 5143-1 (entered December 16, 2019)).*

29 *(B) Termination of "Noteholder Restructuring Support*
30 *Agreement" (Case 19-30088; Document No. 5519-1 (entered*
31 *January 27, 2020)).*

32 *(C) Denial of confirmation of "Debtors' and Shareholder*
33 *Proponents' Joint Chapter 11 Plan of Reorganization Dated March*
34 *16, 2020" (Case 19-30088; Document No. 6320 (entered March*
35 *16, 2020)).*

36 *(D) Failure to confirm on or before June 30, 2020, a plan for*
37 *Pacific Gas and Electric Company to exit bankruptcy.*

38 *(E) Failure of the confirmed plan for Pacific Gas and Electric*
39 *Company to exit bankruptcy to become effective on or before*
40 *September 30, 2020.*

1 (F) The termination of plan proposal's exclusivity period for
2 any party other than the debtors.

3 (G) The filing of a plan for Pacific Gas and Electric Company
4 to exit bankruptcy by any party other than the debtors.

5 (H) The appointment of a trustee, conversion to a case under
6 Chapter 7 (commencing with Section 701) of the United State
7 Bankruptcy Code (Title 11 of the United States Code), or dismissal
8 of the bankruptcy cases.

9 (h) (1) Following the closing of the acquisition of Pacific Gas
10 and Electric Company by Golden State Energy, the revenue
11 requirement in effect for Pacific Gas and Electric Company on
12 the date of the closing of the acquisition shall remain in effect until
13 the revenue requirement is modified pursuant to this section.

14 (2) The commission may adopt a new revenue requirement in
15 a general rate case proceeding for Golden State Energy no sooner
16 than three years from the date of the closing of the acquisition of
17 Pacific Gas and Electric Company.

18 (3) During the interim period between the closing of the
19 acquisition of Pacific Gas and Electric Company and the
20 commission's adoption of a new revenue requirement in a general
21 rate case proceeding pursuant to paragraph (2), both of the
22 following may occur.

23 (A) The commission may direct Golden State Energy to file for
24 attrition year adjustment of the existing revenue requirement.

25 (B) Golden State Energy may increase the existing revenue
26 requirement without the approval of the commission to satisfy the
27 rate covenant, including, without limitation, factoring in capital
28 expenses, debt issuances, operation and maintenance of the utility,
29 funding reserves, and working capital needs. Golden State Energy
30 shall provide the commission 30 days' notice before implementing
31 a revenue requirement increase pursuant to this subdivision.

32 33 PART 4. GOLDEN STATE ENERGY FINANCING POWER 34

35 3440. Any and all Golden State Energy indebtedness, their
36 transfer, and the payments or income therefrom shall at all times
37 be free from income taxation of every kind by the state.

38 3442. (a) Golden State Energy indebtedness shall not be
39 deemed to constitute a debt or liability of the state or of any

1 *political subdivision thereof, or a pledge of the faith and credit of*
2 *the state or of any political subdivision of the state.*

3 *(b) Golden State Energy indebtedness shall be payable solely*
4 *from the funds available to it.*

5 *(c) The issuance of indebtedness shall not directly, indirectly,*
6 *or contingently obligate the state or any other political subdivision*
7 *of the state to levy or pledge any form of taxation or to make any*
8 *appropriation for its repayment.*

9 *3444. (a) Chapter 9 (commencing with Section 5700) of*
10 *Division 6 of Title 1 of the Government Code shall not apply to*
11 *any bonds or other forms of indebtedness issued for the benefit,*
12 *or on behalf, of Golden State Energy.*

13 *(b) Notwithstanding any other law, whenever Golden State*
14 *Energy deems that it will be in the best interests of its ratepayers,*
15 *it may exercise an exclusive right to select and retain, or have any*
16 *conduit issuer issuing bonds or other forms of indebtedness for its*
17 *benefit or on its behalf select and retain, the services of private*
18 *entities, including, but not limited to, underwriters, bond counsels,*
19 *tax counsels, disclosure counsels, financial advisers, bond insurers,*
20 *or other entities providing risk management services for bonds or*
21 *other forms of indebtedness issued for its benefit or on its behalf.*
22 *Payment for any of these private entities may be made out of the*
23 *proceeds of the sale of the bonds or other forms of indebtedness*
24 *issued for the benefit, or on behalf, of Golden State Energy.*

25 *3446. While any indebtedness issued by or on behalf of Golden*
26 *State Energy remains outstanding, the State of California pledges*
27 *to the holders of any such indebtedness that the state will not limit*
28 *or alter the rights vested in Golden State Energy to fulfill the terms*
29 *of any loan agreement, lease, or other contract with the holders*
30 *of such indebtedness, or in any way impair the rights or remedies*
31 *of those holders or of the parties to the related loan agreement,*
32 *lease, or contract. Golden State Energy may include this pledge*
33 *in any instrument under which that indebtedness is incurred or*
34 *issued or other documents entered into in connection with that*
35 *indebtedness as a covenant for the benefit of the holders thereof.*

36
37 *PART 5. OTHER MATTERS*
38

39 *3450. The Legislature hereby ratifies and deems proper all*
40 *acts by representatives of the state before the effective date of this*

1 *division taken in furtherance of the establishment of Golden State*
2 *Energy, including, but not limited to, any offers made to purchase*
3 *the property, including any franchise rights and stock, of Pacific*
4 *Gas and Electric Company, and any acquisition by Golden State*
5 *Energy thereunder.*

6 *3452. This division, being necessary for the prosperity of the*
7 *state and its residents, shall be liberally construed to effect its*
8 *purposes.*

9 *3454. The acquisition of Pacific Gas and Electric Company*
10 *by Golden State Energy, for any reason including pursuant to*
11 *Section 713, shall not be subject to Sections 851 to 854, inclusive,*
12 *if Golden State Energy, or its subsidiary, as part of such*
13 *acquisition, agrees to do all of the following:*

14 *(a) Assume, take assignment of, and be bound by all collective*
15 *bargaining agreements and related obligations, including pension*
16 *and benefit agreements, then in effect that cover the business being*
17 *acquired.*

18 *(b) Assume any obligations for funding under pension plans*
19 *then in effect.*

20 *(c) In the event the transfer is made as part of Pacific Gas and*
21 *Electric Company's and Pacific Gas and Electric Corporation's*
22 *bankruptcy cases pursuant to Chapter 11 (commencing with*
23 *Section 1101) of the United States Bankruptcy Code (Title 11 of*
24 *the United States Code) (Case No. 19-30088), adopt and be bound*
25 *by the terms and provisions set forth on Exhibit B to the Debtors'*
26 *and Shareholder Proponents' Joint Chapter 11 Plan of*
27 *Reorganization Dated March 16, 2020.*

28 *3558. Nothing in this act shall be construed as diminishing or*
29 *enlarging any valid existing rights under any license or franchise*
30 *previously issued pursuant to federal or state law.*

31 *SEC. 14. The provisions of this act are severable. If any*
32 *provision of this act or its application is held invalid, that invalidity*
33 *shall not affect other provisions or applications that can be given*
34 *effect without the invalid provision or application.*

35 *SEC. 15. No reimbursement is required by this act pursuant*
36 *to Section 6 of Article XIII B of the California Constitution because*
37 *the only costs that may be incurred by a local agency or school*
38 *district will be incurred because this act creates a new crime or*
39 *infraction, eliminates a crime or infraction, or changes the penalty*
40 *for a crime or infraction, within the meaning of Section 17556 of*

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

4 ~~SECTION 1.— Section 365.1 of the Public Utilities Code is~~
5 ~~amended to read:~~

6 ~~365.1.— (a) Except as expressly authorized by this section, and~~
7 ~~subject to the limitations in subdivisions (b) and (c), the right of~~
8 ~~retail end-use customers pursuant to this chapter to acquire service~~
9 ~~from other providers is suspended until the Legislature, by statute,~~
10 ~~lifts the suspension or otherwise authorizes direct transactions. For~~
11 ~~purposes of this section, “other provider” means any person,~~
12 ~~corporation, or other entity that is authorized to provide electric~~
13 ~~service within the service territory of an electrical corporation~~
14 ~~pursuant to this chapter, and includes an aggregator, broker, or~~
15 ~~marketer, as defined in Section 331, and an electric service~~
16 ~~provider, as defined in Section 218.3. “Other provider” does not~~
17 ~~include a community choice aggregator, as defined in Section~~
18 ~~331.1, and the limitations in this section do not apply to the sale~~
19 ~~of electricity by “other providers” to a community choice~~
20 ~~aggregator for resale to community choice aggregation electricity~~
21 ~~consumers pursuant to Section 366.2.~~

22 ~~(b) The commission shall allow individual retail nonresidential~~
23 ~~end-use customers to acquire electric service from other providers~~
24 ~~in each electrical corporation’s distribution service territory, up to~~
25 ~~a maximum allowable total kilowatthours annual limit. The~~
26 ~~maximum allowable annual limit shall be established by the~~
27 ~~commission for each electrical corporation at the maximum total~~
28 ~~kilowatthours supplied by all other providers to distribution~~
29 ~~customers of that electrical corporation during any sequential~~
30 ~~12-month period between April 1, 1998, and the effective date of~~
31 ~~this section. Within six months of the effective date of this section,~~
32 ~~or by July 1, 2010, whichever is sooner, the commission shall~~
33 ~~adopt and implement a reopening schedule that commences~~
34 ~~immediately and will phase in the allowable amount of increased~~
35 ~~kilowatthours over a period of not less than three years, and not~~
36 ~~more than five years, raising the allowable limit of kilowatthours~~
37 ~~supplied by other providers in each electrical corporation’s~~
38 ~~distribution service territory from the number of kilowatthours~~
39 ~~provided by other providers as of the effective date of this section,~~
40 ~~to the maximum allowable annual limit for that electrical~~

1 corporation's distribution service territory. The commission shall
2 review and, if appropriate, modify its currently effective rules
3 governing direct transactions, but that review shall not delay the
4 start of the phase-in schedule.

5 (c) ~~Once the commission has authorized additional direct~~
6 ~~transactions pursuant to subdivision (b), it shall do both of the~~
7 ~~following:~~

8 (1) ~~Ensure that other providers are subject to the same~~
9 ~~requirements that are applicable to the state's three largest electrical~~
10 ~~corporations under any programs or rules adopted by the~~
11 ~~commission to implement the resource adequacy provisions of~~
12 ~~Section 380, the renewables portfolio standard provisions of Article~~
13 ~~16 (commencing with Section 399.11), and the requirements for~~
14 ~~the electricity sector adopted by the State Air Resources Board~~
15 ~~pursuant to the California Global Warming Solutions Act of 2006~~
16 ~~(Division 25.5 (commencing with Section 38500) of the Health~~
17 ~~and Safety Code). This requirement applies notwithstanding any~~
18 ~~prior decision of the commission to the contrary.~~

19 (2) (A) ~~Ensure that, in the event that the commission authorizes,~~
20 ~~in the situation of a contract with a third party, or orders, in the~~
21 ~~situation of utility-owned generation, an electrical corporation to~~
22 ~~obtain generation resources that the commission determines are~~
23 ~~needed to meet system or local area reliability needs for the benefit~~
24 ~~of all customers in the electrical corporation's distribution service~~
25 ~~territory, the net capacity costs of those generation resources are~~
26 ~~allocated on a fully nonbypassable basis consistent with departing~~
27 ~~load provisions as determined by the commission, to all of the~~
28 ~~following:~~

29 (i) ~~Bundled service customers of the electrical corporation.~~
30 (ii) ~~Customers that purchase electricity through a direct~~
31 ~~transaction with other providers.~~
32 (iii) ~~Customers of community choice aggregators.~~

33 (B) ~~If the commission authorizes or orders an electrical~~
34 ~~corporation to obtain generation resources pursuant to subparagraph~~
35 ~~(A), the commission shall ensure that those resources meet a system~~
36 ~~or local reliability need in a manner that benefits all customers of~~
37 ~~the electrical corporation. The commission shall allocate the costs~~
38 ~~of those generation resources to ratepayers in a manner that is fair~~
39 ~~and equitable to all customers, whether they receive electric service~~

1 from the electrical corporation, a community choice aggregator,
2 or an electric service provider.

3 (C) The resource adequacy benefits of generation resources
4 acquired by an electrical corporation pursuant to subparagraph (A)
5 shall be allocated to all customers who pay their net capacity costs.
6 Net capacity costs shall be determined by subtracting the energy
7 and ancillary services value of the resource from the total costs
8 paid by the electrical corporation pursuant to a contract with a
9 third party or the annual revenue requirement for the resource if
10 the electrical corporation directly owns the resource. An energy
11 auction shall not be required as a condition for applying this
12 allocation, but may be allowed as a means to establish the energy
13 and ancillary services value of the resource for purposes of
14 determining the net costs of capacity to be recovered from
15 customers pursuant to this paragraph, and the allocation of the net
16 capacity costs of contracts with third parties shall be allowed for
17 the terms of those contracts.

18 (D) It is the intent of the Legislature, in enacting this paragraph,
19 to provide additional guidance to the commission with respect to
20 the implementation of subdivision (g) of Section 380, as well as
21 to ensure that the customers to whom the net costs and benefits of
22 capacity are allocated are not required to pay for the cost of
23 electricity they do not consume.

24 (d) (1) If the commission approves a multiyear centralized
25 resource adequacy mechanism pursuant to subdivisions (h) and
26 (i) of Section 380, upon the implementation of the multiyear
27 centralized resource adequacy mechanism the requirements of
28 paragraph (2) of subdivision (c) shall be suspended if the
29 mechanism does not include a central procurement entity. If the
30 commission later orders that load-serving entities cease procuring
31 capacity through a centralized resource adequacy mechanism, the
32 requirements of paragraph (2) of subdivision (c) shall again apply.

33 (2) If the use of a multiyear centralized resource adequacy
34 mechanism is authorized by the commission and has been
35 implemented as set forth in paragraph (1), the net capacity costs
36 of generation resources that the commission determines are
37 required to meet urgent system or urgent local grid reliability needs,
38 and that the commission authorizes to be procured outside of the
39 Section 380 or Section 454.5 processes, shall be recovered
40 according to the provisions of paragraph (2) of subdivision (c).

1 ~~(3) Nothing in this subdivision supplants the resource adequacy~~
2 ~~requirements of Section 380 or the resource procurement~~
3 ~~procedures established in Section 454.5.~~

4 ~~(e) On or before June 1, 2019, the commission shall issue an~~
5 ~~order regarding direct transactions that provides as follows:~~

6 ~~(1) Increase the maximum allowable total kilowatthours annual~~
7 ~~limit by 4,000 gigawatthours and apportion that increase among~~
8 ~~the service territories of the electrical corporations.~~

9 ~~(2) All residential and nonresidential customer accounts that~~
10 ~~are on direct access as of January 1, 2019, remain authorized to~~
11 ~~participate in direct transactions.~~

12 ~~(f) (1) On or before June 1, 2020, the commission shall provide~~
13 ~~recommendations to the Legislature on implementing a further~~
14 ~~direct transactions reopening schedule, including, but not limited~~
15 ~~to, the phase-in period over which the further direct transactions~~
16 ~~shall occur for all remaining nonresidential customer accounts in~~
17 ~~each electrical corporation's service territory.~~

18 ~~(2) In developing the recommendations pursuant to paragraph~~
19 ~~(1), the commission shall find all of the following:~~

20 ~~(A) The recommendations are consistent with the state's~~
21 ~~greenhouse gas emission reduction goals.~~

22 ~~(B) The recommendations do not increase criteria air pollutants~~
23 ~~and toxic air contaminants.~~

24 ~~(C) The recommendations ensure electric system reliability.~~

25 ~~(D) The recommendations do not cause undue shifting of costs~~
26 ~~to bundled service customers of an electrical corporation or to~~
27 ~~direct transaction customers.~~

28 ~~(3) (A) The recommendations shall be provided in compliance~~
29 ~~with Section 9795 of the Government Code.~~

30 ~~(B) Pursuant to Section 10231.5 of the Government Code, this~~
31 ~~subdivision is inoperative on June 1, 2024.~~

32 ~~SEC. 2. Section 380 of the Public Utilities Code is amended~~
33 ~~to read:~~

34 ~~380. (a) The commission, in consultation with the Independent~~
35 ~~System Operator, shall establish resource adequacy requirements~~
36 ~~for all load-serving entities.~~

37 ~~(b) In establishing resource adequacy requirements, the~~
38 ~~commission shall ensure the reliability of electrical service in~~
39 ~~California while advancing, to the extent possible, the state's goals~~
40 ~~for clean energy, reducing air pollution, and reducing emissions~~

1 of greenhouse gases. The resource adequacy program shall achieve
2 all of the following objectives:

3 (1) ~~Facilitate development of new generating, nongenerating,~~
4 ~~and hybrid capacity and retention of existing generating,~~
5 ~~nongenerating, and hybrid capacity that is economic and needed.~~

6 (2) ~~Establish new or maintain existing demand response products~~
7 ~~and tariffs that facilitate the economic dispatch and use of demand~~
8 ~~response that can either meet or reduce an electrical corporation's~~
9 ~~resource adequacy requirements, as determined by the commission.~~

10 (3) ~~Equitably allocate the cost of generating capacity and~~
11 ~~demand response in a manner that prevents the shifting of costs~~
12 ~~between customer classes.~~

13 (4) ~~Minimize enforcement requirements and costs.~~

14 (5) ~~Maximize the ability of community choice aggregators to~~
15 ~~determine the generation resources used to serve their customers.~~

16 (c) ~~Each load-serving entity shall maintain physical generating~~
17 ~~capacity and electrical demand response adequate to meet its load~~
18 ~~requirements, including, but not limited to, peak demand and~~
19 ~~planning and operating reserves. The generating capacity or~~
20 ~~electrical demand response shall be deliverable to locations and~~
21 ~~at times as may be necessary to maintain electrical service system~~
22 ~~reliability, local area reliability, and flexibility.~~

23 (d) ~~Each load-serving entity shall, at a minimum, meet the most~~
24 ~~recent minimum planning reserve and reliability criteria approved~~
25 ~~by the Board of Directors of the Western Systems Coordinating~~
26 ~~Council or the Western Electricity Coordinating Council.~~

27 (e) ~~The commission shall implement and enforce the resource~~
28 ~~adequacy requirements established in accordance with this section~~
29 ~~in a nondiscriminatory manner. Each load-serving entity shall be~~
30 ~~subject to the same requirements for resource adequacy and the~~
31 ~~renewables portfolio standard program that are applicable to~~
32 ~~electrical corporations pursuant to this section, or otherwise~~
33 ~~required by law, or by order or decision of the commission. The~~
34 ~~commission shall exercise its enforcement powers to ensure~~
35 ~~compliance by all load-serving entities.~~

36 (f) ~~The commission shall require sufficient information,~~
37 ~~including, but not limited to, anticipated load, actual load, and~~
38 ~~measures undertaken by a load-serving entity to ensure resource~~
39 ~~adequacy, to be reported to enable the commission to determine~~

1 compliance with the resource adequacy requirements established
2 by the commission.

3 ~~(g) An electrical corporation's costs of meeting or reducing~~
4 ~~resource adequacy requirements, including, but not limited to, the~~
5 ~~costs associated with system reliability, local area reliability, and~~
6 ~~flexibility, that are determined to be reasonable by the commission;~~
7 ~~or are otherwise recoverable under a procurement plan approved~~
8 ~~by the commission pursuant to Section 454.5, shall be fully~~
9 ~~recoverable from those customers on whose behalf the costs are~~
10 ~~incurred, as determined by the commission, at the time the~~
11 ~~commitment to incur the cost is made, on a fully nonbypassable~~
12 ~~basis, as determined by the commission. The commission shall~~
13 ~~exclude any amounts authorized to be recovered pursuant to~~
14 ~~Section 366.2 when authorizing the amount of costs to be recovered~~
15 ~~from customers of a community choice aggregator or from~~
16 ~~customers that purchase electricity through a direct transaction~~
17 ~~pursuant to this subdivision.~~

18 ~~(h) The commission shall determine and authorize the most~~
19 ~~efficient and equitable means for achieving all of the following:~~

- 20 ~~(1) Meeting the objectives of this section.~~
21 ~~(2) Ensuring that investment is made in new generating capacity.~~
22 ~~(3) Ensuring that existing generating capacity that is economic~~
23 ~~is retained.~~
24 ~~(4) Ensuring that the cost of generating capacity and demand~~
25 ~~response is allocated equitably.~~
26 ~~(5) Ensuring that community choice aggregators can determine~~
27 ~~the generation resources used to serve their customers.~~
28 ~~(6) Ensuring that investments are made in new and existing~~
29 ~~demand response resources that are cost effective and help to~~
30 ~~achieve electrical grid reliability and the state's goals for reducing~~
31 ~~emissions of greenhouse gases.~~
32 ~~(7) Minimizing the need for backstop procurement by the~~
33 ~~Independent System Operator.~~

34 ~~(i) In making the determination pursuant to subdivision (h), the~~
35 ~~commission may consider a multiyear centralized resource~~
36 ~~adequacy mechanism among other options.~~

37 ~~(j) The commission shall ensure appropriate valuation of both~~
38 ~~supply and load modifying demand response resources. The~~
39 ~~commission, in an existing or new proceeding, shall establish a~~
40 ~~mechanism to value load modifying demand response resources;~~

1 including, but not limited to, the ability of demand response
2 resources to help meet distribution needs and transmission system
3 needs and to help reduce a load-serving entity's resource adequacy
4 obligation pursuant to this section. In determining this value, the
5 commission shall consider how these resources further the state's
6 electrical grid reliability and the state's goals for reducing
7 emissions of greenhouse gases. The commission, Energy
8 Commission, and Independent System Operator shall jointly ensure
9 that changes in demand caused by load modifying demand response
10 are expeditiously and comprehensively reflected in the Energy
11 Commission's Integrated Energy Policy Report forecast, as well
12 as in planning proceedings and associated analyses, and shall
13 encourage reflection of these changes in demand in the operation
14 of the grid.

15 (k) For purposes of this section, "load-serving entity" means an
16 electrical corporation, electric service provider, or community
17 choice aggregator. "Load-serving entity" does not include any of
18 the following:

- 19 (1) A local publicly owned electric utility.
- 20 (2) The State Water Resources Development System commonly
21 known as the State Water Project.
- 22 (3) Customer generation located on the customer's site or
23 providing electric service through arrangements authorized by
24 Section 218, if the customer generation, or the load it serves, meets
25 one of the following criteria:
 - 26 (A) It takes standby service from the electrical corporation on
27 a commission-approved rate schedule that provides for adequate
28 backup planning and operating reserves for the standby customer
29 class.
 - 30 (B) It is not physically interconnected to the electrical
31 transmission or distribution grid, so that, if the customer generation
32 fails, backup electricity is not supplied from the electrical grid.
 - 33 (C) There is physical assurance that the load served by the
34 customer generation will be curtailed concurrently and
35 commensurately with an outage of the customer generation.

O

California State Senate

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SENATOR
JERRY HILL

THIRTEENTH SENATE DISTRICT



COMMITTEES
LABOR, PUBLIC EMPLOYMENT &
RETIREMENT
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APPROPRIATIONS
BUSINESS, PROFESSIONS &
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ENERGY, UTILITIES &
COMMUNICATIONS
ENVIRONMENTAL QUALITY
GOVERNMENTAL ORGANIZATION

May 21, 2020

Assemblymember Ken Cooley
Chair, Assembly Committee on Rules
State Capitol, Room 3016
Sacramento, CA 95814

Dear Assemblymember Cooley,

I respectfully request an urgency be authorized for Senate Bill 350, currently in possession of the Assembly Utilities and Energy Committee.

SB 350, the Golden State Energy Act, provides the statutory authorization for the California Public Utilities Commission (CPUC) to initiate enhanced enforcement and oversight mechanisms for Pacific Gas & Electric Company (PG&E), should the Company not comply with the terms of its bankruptcy restructuring. SB 350 additionally allows for the Governor to create a nonprofit public benefit corporation, Golden State Energy (GSE), who may be authorized to purchase PG&E. These two tenets make up a contingency plan – a Plan B – should PG&E fail to adopt the required reforms and fail to correct its behavior.

AB 1054 (Holden, Chapter 79, Statutes of 2019) required – among its many provisions – PG&E's emergence from bankruptcy be resolved by June 30, 2020. It is critical that PG&E not only meets this deadline, but that the State is ready with its Plan B by that time. I seek an urgency clause to SB 350 to ensure the Plan B is in place.

Thank you for your consideration of my request. If you have any questions, please contact me on my cell at (650) 619-6430 or my Chief of Staff, Laura McWilliams, at (501) 860-3774.

Sincerely,

Senator, 13th District

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California State Senate

SENATOR
STEVEN BRADFORD

THIRTY-FIFTH SENATE DISTRICT



COMMITTEES
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CHAIR

APPROPRIATIONS
ENERGY, UTILITIES &
COMMUNICATIONS
GOVERNMENTAL
ORGANIZATION
PUBLIC SAFETY

May 22, 2020

The Honorable Ken Cooley
Chair, Assembly Rules Committee
State Capitol, Room 3016
Sacramento, CA 95814

RE: SB 625 – Urgency Clause

Dear Assemblymember Cooley,

This letter serves as a request for you to allow the Assembly Committee on Local Government to add an urgency clause to SB 625 as proposed to be amended. The urgency clause is necessary to protect the immediate health and safety needs of the people of Southeast Los Angeles County by maintaining a reliable drinking water supply. To that end, the Central Basin Municipal Water District must have a receiver take over its operations early in the fiscal year, which begins on July 1, 2020.

Thank you for your consideration on this time sensitive matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven Bradford".

STEVEN BRADFORD
Senator, 35th District

PROPOSED AMENDMENTS

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SUBSTANTIVE

PROPOSED AMENDMENTS TO SENATE BILL NO. 625
AMENDED IN ASSEMBLY JULY 1, 2019

SENATE BILL

No. 625

Introduced by Senator ~~Hill~~ Bradford

*(Principal coauthors: Assembly Members Cristina Garcia and
Jones-Sawyer)*

*(Coauthors: Assembly Members Calderon, Carrillo, Chau, Gipson,
Kamlager, Rendon, and Santiago)*

February 22, 2019



RN2012305

Amendment 1
Amendment 2

~~An act to add Section 5384.3 to the Public Utilities Code, and to
amend Section 23229 of, and to add Section 23229.2 to, the Vehicle
Code, relating to party buses. An act to add and repeal Part 3.5
(commencing with Section 71400) of Division 20 of the Water Code,
relating to water.~~

Amendment 3

LEGISLATIVE COUNSEL'S DIGEST

SB 625, as amended, ~~Hill~~ Bradford. ~~Party buses; cannabis. Central
Basin Municipal Water District: receivership.~~

(1) Existing law, the Municipal Water District Law of 1911, provides
for the formation of municipal water districts and grants to those
districts specified powers. Existing law permits a district to acquire,
control, distribute, store, spread, sink, treat, purify, recycle, recapture,
and salvage any water for the beneficial use of the district, its
inhabitants, or the owners of rights to water in the district. Existing
law requires the board of directors of the Central Basin Municipal
Water District (CBMWD) to be composed of 8 directors until the
directors elected at the November 8, 2022, election take office, when
the board would be composed of 7 directors, as prescribed.

PROPOSED AMENDMENTS

SB 625

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This bill would dissolve the board of directors of CBMWD and would provide that the November 3, 2020, election for directors of CBMWD shall not occur. The bill would require the Water Replenishment District of Southern California (WRD) to act as the receiver for CBMWD, would vest WRD with all necessary powers under the Municipal Water District Law of 1911 to take control of CBMWD, and would transfer all powers vested in the board of directors of CBMWD to the board of directors of WRD, except as specified. The bill would require CBMWD's board of directors to surrender all control of CBMWD and its resources to WRD.

The bill would require the Local Agency Formation Commission for the County of Los Angeles to conduct a municipal service review of CBMWD and to seek ideas through a public process for governance of CBMWD. The bill would require the commission to report the results of those activities to the Legislature, as provided.

The bill would make its provisions inoperative 18 months after the effective date of the bill and would repeal its provisions as of January 1 of the following year.

By imposing additional duties on the board of directors of the CBMWD, WRD, and the Local Agency Formation Commission for the County of Los Angeles, the bill would impose a state-mandated local program.

(2) This bill would make legislative findings and declarations as to the necessity of a special statute for the Central Basin Municipal Water District.

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

This bill would provide that 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.

~~Existing law prohibits a passenger in a motor vehicle being driven upon a highway from drinking any alcoholic beverage or smoking or ingesting any cannabis product. Existing law exempts passengers in any bus, taxicab, or limousine, as specified, from this prohibition.~~

PROPOSED AMENDMENTS

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SB 625

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~~This bill would instead prohibit the smoking or vaping of cannabis products by a passenger in a bus, taxicab, or limousine, but would create a limited exemption for limousines, modified limousines, and charter buses only if there are no passengers under 21 years of age present and the driver is sealed off from the passenger compartment, as specified.~~

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

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

- + SECTION 1. The Legislature hereby finds and declares all of
+ the following:
- + (a) In a 2015 audit of the Central Basin Municipal Water
+ District (district), the California State Auditor concluded that the
+ district's board of directors' poor leadership, decisionmaking,
+ and oversight hinder the district's ability to meet its
+ responsibilities. In other findings, the audit states that the board
+ violated state law in creating a \$2,750,000 trust fund. In addition,
+ the audit observed that the board gave its members benefits that
+ were too generous. The California State Auditor recommended
+ that the Legislature preserve the district as an independent entity
+ but modify its governance structure to ensure it remains
+ accountable to those it serves—it could change the district's board
+ from one elected by the public at large to one appointed by the
+ district's customers.
- + (b) In 2016, the Legislature reformed the district's board by
+ enacting Chapter 401 of the Statutes of 2016 to add three water
+ or management professionals appointed by the district's customers,
+ which are public water systems, increasing the total number of
+ directors to eight. The district does not serve water directly to
+ residents or voters. A majority of the board of a municipal water
+ district constitutes a quorum for the transaction of business,
+ thereby requiring five of the eight total district board members to
+ form a quorum or take any action.
- + (c) In late 2019, four members of the district's board (the Four
+ Directors) started asserting that a majority of the board only
+ required four board members, because one of the appointed
+ members had resigned in October 2019. Despite the parties
+ responsible for the appointment completing the required process

Amendment 4

PROPOSED AMENDMENTS

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+ for appointment, the board has resisted swearing in an eighth
+ member.

+ (d) On January 30, 2020, the Four Directors rejected the advice
+ from the district's counsel at a public meeting that, with only four
+ members remaining, they no longer had a quorum and could not
+ legally transact district business. The Four Directors then
+ purported to appoint Leticia Vasquez as president of the board.
+ On February 6, 2020, the Four Directors purported to fire the
+ district's counsel and hire another attorney, who then advised the
+ board publicly that four members of the board constituted a
+ quorum.

+ (e) On March 6, 2020, the Los Angeles District Attorney's Office
+ (DA) sent the district's board members a letter demanding that
+ they cure the February 6, 2020, violations of the Ralph M. Brown
+ Act (Chapter 9 (commencing with Section 54950) of Part 1 of
+ Division 2 of Title 5 of the Government Code). Specifically, the
+ DA demanded the cure of deficient notice of the February 6, 2020,
+ "special meeting" and the insufficient votes to appoint a new
+ attorney. The board's purported attorney responded in a letter,
+ rejecting the DA's demand and arguing that four members
+ constituted a majority.

+ (f) On March 25, 2020, district customers filed *City of*
+ *Commerce et al v. Central Basin Municipal Water District* to void
+ the district's alleged illegal actions and stop the board of directors
+ of the district from further illegal action. In response, the board's
+ purported attorney filed an *ex parte* application for the superior
+ court to order that four board members constituted a majority.
+ The court denied the *ex parte* application, and set the trial for July
+ 23, 2020, despite the board's purported attorney arguing that the
+ district needed an immediate answer because the district could
+ not obtain insurance.

+ (g) The district operates at a deficit, using its reserve funds to
+ make up the difference. It has failed to enact cost-cutting measures
+ in light of a substantial loss of water sales revenue. The district
+ has not adopted a budget for the 2020–21 fiscal year and has not
+ started the process required to impose the standby charge it has
+ imposed since 1991. Failure to approve the standby charge would
+ reduce the district's annual revenues by more than \$3,000,000.

+ (h) The district has failed to legally appoint a general manager
+ or general counsel with the necessary five directors to approve

PROPOSED AMENDMENTS

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+ those appointments. The district has failed to contract for
+ information technology support services, resulting in risk to its
+ supervisory control and data acquisition (SCADA) system, billing
+ system, payroll system, and computer network.

+ (i) In light of the COVID-19 crisis, a stable and consistent
+ drinking water supply is essential to the people of the southeastern
+ portion of the County of Los Angeles. They cannot afford to have
+ the public water systems that deliver drinking water to their taps
+ focus on conflict with the district. Their public water systems need
+ a water supply from a stable wholesale water agency.

+ (j) The problems at the district that the California State Auditor
+ identified in 2015 cannot be resolved by the district board as
+ currently constituted. Protecting the water supply imported by the
+ district requires immediate action to appoint a receiver for the
+ district while the community addresses alternatives for long-term
+ governance.

+ SEC. 2. Part 3.5 (commencing with Section 71400) is added
+ to Division 20 of the Water Code, to read:

+ PART 3.5. CENTRAL BASIN MUNICIPAL WATER DISTRICT + RECEIVERSHIP

+ 71400. For purposes of this part, "district" means the Central
+ Basin Municipal Water District.

+ 71401. Notwithstanding Chapter 1.6 (commencing with Section
+ 71265) of Part 3, all of the following shall apply:

+ (a) The board of directors of the district is hereby dissolved. A
+ member of the board of directors of the district shall have no claim
+ for benefits other than those the member actually received while
+ a member of the board of directors.

+ (b) Upon the effective date of this part, the district's board of
+ directors shall surrender all control of the district and its resources
+ to the Water Replenishment District of Southern California. The
+ members of the district's board of directors shall surrender to
+ district staff all district property, including, but not limited to,
+ keys, mobile telephones, and credit cards, and access to district
+ bank accounts and other resources or information provided to the
+ directors in their capacity as directors.

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- + (c) The board of directors of the district shall not have any
- + authority, including, but not limited to, the authority to do either
- + of the following:
- + (1) Represent the interests of the voters or public water systems
- + within the service territory of the district.
- + (2) Influence the operation of the district.
- + (d) The November 3, 2020, election for directors of the district
- + shall not occur.
- + 71402. (a) The Water Replenishment District of Southern
- + California shall act as the receiver for the district.
- + (b) The Water Replenishment District of Southern California
- + shall have all necessary powers described in this division to take
- + control of the district, including, but not limited to, powers related
- + to assets, revenues, employees, facilities, and services. Financial
- + institutions holding money or other assets owned by the district
- + shall transfer control of those assets to the Water Replenishment
- + District of Southern California.
- + (c) All powers vested in the board of directors of the district
- + are hereby transferred to the board of directors of the Water
- + Replenishment District of Southern California, except that the
- + Water Replenishment District of Southern California shall not
- + have the authority to do either of the following:
- + (1) Dissolve the district.
- + (2) Revise the transfer of powers from the district to the Water
- + Replenishment District of Southern California as provided in this
- + part.
- + (d) The board of directors of the Water Replenishment District
- + of Southern California shall, on or before 30 days after the effective
- + date of this part, present a financial plan for managing the
- + receivership to its existing budget advisory committee.
- + (e) The Water Replenishment District of Southern California
- + shall, on or before 60 days after the effective date of this part,
- + complete the annual process required by the Uniform Standby
- + Charge Procedures Act (Chapter 12.4 (commencing with Section
- + 54984) of Part 1 of Division 2 of Title 5 of the Government Code)
- + to impose the standby charge that the district has imposed annually
- + since 1991.
- + (f) The Water Replenishment District of Southern California
- + shall use only the district's revenues to pay the costs of the
- + receivership and the reasonable costs of the Local Agency

PROPOSED AMENDMENTS

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- + *Formation Commission for the County of Los Angeles to complete*
+ *the municipal service review required pursuant to Section 71403.*
+ *(g) To the extent permitted under the Constitution of the United*
+ *States or the Constitution of the State of California, the Water*
+ *Replenishment District of Southern California shall not be held*
+ *liable for claims concerning the operation and supply of water*
+ *from the district before the commencement of the receivership.*
+ *71403. (a) The Local Agency Formation Commission for the*
+ *County of Los Angeles shall, using its existing authority, conduct*
+ *a municipal service review of the district pursuant to Section 56430*
+ *of the Government Code.*
+ *(b) (1) The commission shall report the results of the municipal*
+ *service review to the Legislature in compliance with Section 9795*
+ *of the Government Code on or before six months after the effective*
+ *date of this part or December 31, 2020, whichever date occurs*
+ *later.*
+ *(2) The report shall focus on the element of the municipal service*
+ *review described in paragraph (7) of subdivision (a) of Section*
+ *56430 of the Government Code by recommending alternatives for*
+ *long-term governance of the services of selling Metropolitan Water*
+ *District of Southern California water to public water systems in*
+ *the service territory of the district and selling recycled water from*
+ *the Los Angeles County Sanitation Districts.*
+ *(c) (1) The commission shall, through a public process, seek*
+ *ideas for governance of the district from all of the following:*
+ *(A) Customers who buy water from the district, represented by*
+ *the Central Basin Water Association.*
+ *(B) Other public agencies in or near the district's service*
+ *territory, including, but not limited to, the County of Los Angeles,*
+ *the Water Replenishment District of Southern California, and the*
+ *Metropolitan Water District of Southern California.*
+ *(C) The general public in and near the district's service*
+ *territory.*
+ *(2) The commission shall include the results of the public*
+ *process in the report.*
+ *71404. This part shall become inoperative 18 months after the*
+ *effective date of this part, and, as of January 1 of the following*
+ *year, is repealed.*
+ *SEC. 3. The Legislature finds and declares that a special statute*
+ *is necessary and that a general statute cannot be made applicable*

PROPOSED AMENDMENTS

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+ within the meaning of Section 16 of Article IV of the California
+ Constitution because of the unique need to protect the water supply
+ imported by the Central Basin Municipal Water District by
+ immediately appointing a receiver for the district while the
+ community addresses alternatives for long-term governance.

+ SEC. 4. 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.

age 1 1 ~~SECTION 1. Section 5384.3 is added to the Public Utilities~~
2 ~~Code, to read:~~

3 ~~5384.3. (a) Notwithstanding Sections 23221 and 23229.2 of~~
4 ~~the Vehicle Code, a charter-party carrier of passengers may allow~~
age 2 1 ~~passengers in a bus, limousine, or modified limousine to smoke~~
2 ~~or vape cannabis or cannabis products if all of the following~~
3 ~~conditions are met:~~

4 (1) ~~There are no passengers under 21 years of age present in~~
5 ~~the vehicle;~~

6 (2) ~~The driver's compartment of the vehicle is sealed off by a~~
7 ~~physical barrier that effectively limits the passage of smoke or~~
8 ~~vapor to the driver's compartment;~~

9 (3) ~~The driver's compartment and passenger compartment are~~
10 ~~separately ventilated. The vehicle's ventilation system shall ensure~~
11 ~~that while cannabis consumption is taking place, air from the~~
12 ~~passenger cabin is not circulated in the driver's compartment.~~

13 (4) ~~If the barrier between the driver's compartment and~~
14 ~~passenger compartment has a door, window, partition, or other~~
15 ~~opening, the charter-party carrier shall comply with both of the~~
16 ~~following:~~

17 (A) ~~The door, window, partition, or other opening shall remain~~
18 ~~sealed while passengers are present in the vehicle;~~

19 (B) ~~An employee other than the driver shall remain in the~~
20 ~~passenger compartment while passengers are present in the vehicle.~~

Amendment 5

PROPOSED AMENDMENTS

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- ige 2 22 ~~(5) Cannabis consumption is not visible from any public place.~~
23 ~~(6) The following notice is conspicuously posted in the~~
24 ~~passenger compartment of the vehicle:~~
25 ~~CONSUMER NOTICE: CANNABIS USE IS ALLOWED IN~~
26 ~~THIS VEHICLE. CANNABIS IS A SCHEDULE I DRUG. ONLY~~
27 ~~PERSONS 21 YEARS OF AGE OR OLDER ARE ALLOWED~~
28 ~~IN THIS VEHICLE. CANNABIS USE WHILE PREGNANT OR~~
29 ~~BREASTFEEDING MAY BE HARMFUL. CONSUMPTION OF~~
30 ~~CANNABIS IMPAIRS YOUR ABILITY TO DRIVE AND~~
31 ~~OPERATE MACHINERY. USE EXTREME CAUTION.~~
32 ~~(b) (1) A determination that the vehicle meets the requirements~~
33 ~~of paragraphs (2) and (3) of subdivision (a) shall be made and~~
34 ~~attested to in writing by a third-party state licensed engineer. A~~
35 ~~copy of this determination shall be presented to the California~~
36 ~~Highway Patrol for verification and inspection of the vehicle. A~~
37 ~~copy of the determination shall be presented, upon request, to the~~
38 ~~commission. The charter-party carrier shall keep a copy of this~~
39 ~~determination in the vehicle.~~
ige 3 1 ~~(2) The design of the vehicle shall not compromise driver or~~
2 ~~passenger safety. Vehicles shall comply with all safety laws and~~
3 ~~regulations applicable to buses, limousines, or modified limousines~~
4 ~~as relevant to the specific type of vehicle.~~
5 ~~(c) Before commencing transportation or allowing any cannabis~~
6 ~~consumption in the vehicle, whichever occurs first, the driver or~~
7 ~~an employee of the charter-party carrier shall do all of the~~
8 ~~following:~~
9 ~~(1) Check the identification of all passengers to verify every~~
10 ~~passenger is 21 years of age or older. If a passenger is picked up~~
11 ~~at another location, the driver or employee shall immediately check~~
12 ~~the identification of that passenger.~~
13 ~~(2) Announce to all passengers that cannabis consumption will~~
14 ~~be taking place in the vehicle.~~
15 ~~(3) Announce to all passengers the location of all emergency~~
16 ~~exits and fire extinguishers, if the vehicle is required to have these~~
17 ~~features.~~
18 ~~(d) If the commission, after a hearing, finds that the charter-party~~
19 ~~carrier has violated this section, the commission shall impose the~~
20 ~~following penalties:~~
21 ~~(1) For a first violation of paragraph (1), (5), or (6) of~~
22 ~~subdivision (a), or subdivision (c), the commission shall impose~~

PROPOSED AMENDMENTS

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23 a civil penalty of not more than two thousand dollars (\$2,000), as
24 determined appropriate by the commission.
25 ~~(2) For a second violation of paragraph (1), (5), or (6) of~~
26 ~~subdivision (a), or subdivision (c), the commission shall impose~~
27 ~~a civil penalty of not more than two thousand dollars (\$2,000), a~~
28 ~~suspension of the carrier's certificate or permit for no more than~~
29 ~~30 days, or both such penalty and suspension, as determined~~
30 ~~appropriate by the commission.~~
31 ~~(3) For a third violation of paragraph (1), (5), or (6) of~~
32 ~~subdivision (a), or subdivision (c), the commission shall revoke~~
33 ~~the carrier's certificate or permit.~~
34 ~~(4) For any violation of paragraph (2), (3), or (4) of subdivision~~
35 ~~(a), or subdivision (b), where the carrier knowingly permitted the~~
36 ~~smoking or vaping of cannabis or cannabis products, the~~
37 ~~commission shall revoke the carrier's certificate or permit.~~
38 ~~(c) The authority granted to the commission pursuant to~~
39 ~~subdivision (d) is in addition to any authority the commission has~~
40 ~~to enforce the requirements of this chapter, and the commission~~
1 ~~may impose any additional penalties available pursuant to this~~
2 ~~chapter for a violation of this section.~~
4 SEC. 2. ~~Section 23229 of the Vehicle Code is amended to read:~~
5 ~~23229. — (a) Except as provided in Sections 23229.1 and~~
6 ~~23229.2, Sections 23221 and 23223 do not apply to passengers in~~
7 ~~any bus, taxicab, or limousine for hire licensed to transport~~
8 ~~passengers pursuant to the Public Utilities Code or proper local~~
9 ~~authority, the living quarters of a housecar or camper, or of a~~
10 ~~pedicab operated pursuant to Article 4.5 (commencing with Section~~
11 ~~21215) of Chapter 1.~~
12 ~~(b) Except as provided in Section 23229.1, Section 23225 does~~
13 ~~not apply to the driver or owner of a bus, taxicab, or limousine for~~
14 ~~hire licensed to transport passengers pursuant to the Public Utilities~~
15 ~~Code or proper local authority, or of a pedicab operated pursuant~~
16 ~~to Article 4.5 (commencing with Section 21215) of Chapter 1.~~
18 SEC. 3. ~~Section 23229.2 is added to the Vehicle Code, to read:~~
19 ~~23229.2. — Subdivision (b) of Section 23222 shall apply to the~~
20 ~~driver of, and subdivision (b) of Section 23221, as it pertains to~~
21 ~~the smoking or vaping of cannabis or any cannabis product, shall~~
22 ~~apply to any passenger in, any bus, taxicab, or limousine for hire~~
23 ~~licensed to transport passengers pursuant to the Public Utilities~~

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Page 4 24 Code or local authority except as otherwise provided in Section
25 5384.3 of the Public Utilities Code.

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AMENDMENTS TO SENATE BILL NO. 625
AS AMENDED IN ASSEMBLY JULY 1, 2019

Amendment 1

In the heading, in line 1, strike out "Hill" and insert:

Bradford

Amendment 2

In the heading, below line 1, insert:

(Principal coauthors: Assembly Members Cristina Garcia and Jones-Sawyer)
(Coauthors: Assembly Members Calderon, Carrillo, Chau, Gipson, Kamlager, Rendon, and Santiago)

Amendment 3

In the title, strike out lines 1 to 3, inclusive, and insert:

An act to add and repeal Part 3.5 (commencing with Section 71400) of Division 20 of the Water Code, relating to water.

Amendment 4

On page 1, before line 1, insert:

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

(a) In a 2015 audit of the Central Basin Municipal Water District (district), the California State Auditor concluded that the district's board of directors' poor leadership, decisionmaking, and oversight hinder the district's ability to meet its responsibilities. In other findings, the audit states that the board violated state law in creating a \$2,750,000 trust fund. In addition, the audit observed that the board gave its members benefits that were too generous. The California State Auditor recommended that the Legislature preserve the district as an independent entity but modify its governance structure to ensure it remains accountable to those it serves—it could change the district's board from one elected by the public at large to one appointed by the district's customers.

(b) In 2016, the Legislature reformed the district's board by enacting Chapter 401 of the Statutes of 2016 to add three water or management professionals appointed by the district's customers, which are public water systems, increasing the total number of directors to eight. The district does not serve water directly to residents or voters. A majority of the board of a municipal water district constitutes a quorum for the transaction of business, thereby requiring five of the eight total district board members to form a quorum or take any action.



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(c) In late 2019, four members of the district's board (the Four Directors) started asserting that a majority of the board only required four board members, because one of the appointed members had resigned in October 2019. Despite the parties responsible for the appointment completing the required process for appointment, the board has resisted swearing in an eighth member.

(d) On January 30, 2020, the Four Directors rejected the advice from the district's counsel at a public meeting that, with only four members remaining, they no longer had a quorum and could not legally transact district business. The Four Directors then purported to appoint Leticia Vasquez as president of the board. On February 6, 2020, the Four Directors purported to fire the district's counsel and hire another attorney, who then advised the board publicly that four members of the board constituted a quorum.

(e) On March 6, 2020, the Los Angeles District Attorney's Office (DA) sent the district's board members a letter demanding that they cure the February 6, 2020, violations of the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code). Specifically, the DA demanded the cure of deficient notice of the February 6, 2020, "special meeting" and the insufficient votes to appoint a new attorney. The board's purported attorney responded in a letter, rejecting the DA's demand and arguing that four members constituted a majority.

(f) On March 25, 2020, district customers filed *City of Commerce et al v. Central Basin Municipal Water District* to void the district's alleged illegal actions and stop the board of directors of the district from further illegal action. In response, the board's purported attorney filed an ex parte application for the superior court to order that four board members constituted a majority. The court denied the ex parte application, and set the trial for July 23, 2020, despite the board's purported attorney arguing that the district needed an immediate answer because the district could not obtain insurance.

(g) The district operates at a deficit, using its reserve funds to make up the difference. It has failed to enact cost-cutting measures in light of a substantial loss of water sales revenue. The district has not adopted a budget for the 2020–21 fiscal year and has not started the process required to impose the standby charge it has imposed since 1991. Failure to approve the standby charge would reduce the district's annual revenues by more than \$3,000,000.

(h) The district has failed to legally appoint a general manager or general counsel with the necessary five directors to approve those appointments. The district has failed to contract for information technology support services, resulting in risk to its supervisory control and data acquisition (SCADA) system, billing system, payroll system, and computer network.

(i) In light of the COVID-19 crisis, a stable and consistent drinking water supply is essential to the people of the southeastern portion of the County of Los Angeles. They cannot afford to have the public water systems that deliver drinking water to their taps focus on conflict with the district. Their public water systems need a water supply from a stable wholesale water agency.

(j) The problems at the district that the California State Auditor identified in 2015 cannot be resolved by the district board as currently constituted. Protecting the water supply imported by the district requires immediate action to appoint a receiver for the district while the community addresses alternatives for long-term governance.

SEC. 2. Part 3.5 (commencing with Section 71400) is added to Division 20 of the Water Code, to read:

PART 3.5. CENTRAL BASIN MUNICIPAL WATER DISTRICT RECEIVERSHIP

71400. For purposes of this part, "district" means the Central Basin Municipal Water District.

71401. Notwithstanding Chapter 1.6 (commencing with Section 71265) of Part 3, all of the following shall apply:

(a) The board of directors of the district is hereby dissolved. A member of the board of directors of the district shall have no claim for benefits other than those the member actually received while a member of the board of directors.

(b) Upon the effective date of this part, the district's board of directors shall surrender all control of the district and its resources to the Water Replenishment District of Southern California. The members of the district's board of directors shall surrender to district staff all district property, including, but not limited to, keys, mobile telephones, and credit cards, and access to district bank accounts and other resources or information provided to the directors in their capacity as directors.

(c) The board of directors of the district shall not have any authority, including, but not limited to, the authority to do either of the following:

(1) Represent the interests of the voters or public water systems within the service territory of the district.

(2) Influence the operation of the district.

(d) The November 3, 2020, election for directors of the district shall not occur.

71402. (a) The Water Replenishment District of Southern California shall act as the receiver for the district.

(b) The Water Replenishment District of Southern California shall have all necessary powers described in this division to take control of the district, including, but not limited to, powers related to assets, revenues, employees, facilities, and services. Financial institutions holding money or other assets owned by the district shall transfer control of those assets to the Water Replenishment District of Southern California.

(c) All powers vested in the board of directors of the district are hereby transferred to the board of directors of the Water Replenishment District of Southern California, except that the Water Replenishment District of Southern California shall not have the authority to do either of the following:

(1) Dissolve the district.

(2) Revise the transfer of powers from the district to the Water Replenishment District of Southern California as provided in this part.

(d) The board of directors of the Water Replenishment District of Southern California shall, on or before 30 days after the effective date of this part, present a financial plan for managing the receivership to its existing budget advisory committee.

(e) The Water Replenishment District of Southern California shall, on or before 60 days after the effective date of this part, complete the annual process required by the Uniform Standby Charge Procedures Act (Chapter 12.4 (commencing with Section 54984) of Part 1 of Division 2 of Title 5 of the Government Code) to impose the standby charge that the district has imposed annually since 1991.

(f) The Water Replenishment District of Southern California shall use only the district's revenues to pay the costs of the receivership and the reasonable costs of the Local Agency Formation Commission for the County of Los Angeles to complete the municipal service review required pursuant to Section 71403.

(g) To the extent permitted under the Constitution of the United States or the Constitution of the State of California, the Water Replenishment District of Southern California shall not be held liable for claims concerning the operation and supply of water from the district before the commencement of the receivership.

71403. (a) The Local Agency Formation Commission for the County of Los Angeles shall, using its existing authority, conduct a municipal service review of the district pursuant to Section 56430 of the Government Code.

(b) (1) The commission shall report the results of the municipal service review to the Legislature in compliance with Section 9795 of the Government Code on or before six months after the effective date of this part or December 31, 2020, whichever date occurs later.

(2) The report shall focus on the element of the municipal service review described in paragraph (7) of subdivision (a) of Section 56430 of the Government Code by recommending alternatives for long-term governance of the services of selling Metropolitan Water District of Southern California water to public water systems in the service territory of the district and selling recycled water from the Los Angeles County Sanitation Districts.

(c) (1) The commission shall, through a public process, seek ideas for governance of the district from all of the following:

(A) Customers who buy water from the district, represented by the Central Basin Water Association.

(B) Other public agencies in or near the district's service territory, including, but not limited to, the County of Los Angeles, the Water Replenishment District of Southern California, and the Metropolitan Water District of Southern California.

(C) The general public in and near the district's service territory.

(2) The commission shall include the results of the public process in the report.

71404. This part shall become inoperative 18 months after the effective date of this part, and, as of January 1 of the following year, is repealed.

SEC. 3. The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique need to protect the water supply imported by the Central Basin Municipal Water District by immediately appointing a receiver for the district while the community addresses alternatives for long-term governance.

SEC. 4. 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.

Amendment 5

On page 1, strike out lines 1 to 4, inclusive, and strike out pages 2 to 4, inclusive

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Assembly Constitutional Amendment

No. 25

**Introduced by Assembly Members Mullin, Ting, Cooley, and
Waldron**

**(Principal coauthors: Assembly Members Bonta, Chiu, Gipson,
and Low)**

**(Coauthors: Assembly Members Aguiar-Curry, Berman, Bloom,
Daly, Eggman, Kalra, Levine, Nazarian, Quirk, Quirk-Silva,
Reyes, Luz Rivas, Blanca Rubio, Smith, and Wicks)**

May 21, 2020

Assembly Constitutional Amendment No. 25—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by adding Section 21.5 to Article IV thereof, relating to the Legislature.

LEGISLATIVE COUNSEL’S DIGEST

ACA 25, as introduced, Mullin. State of emergency: remote legislative proceedings.

The California Constitution requires the Legislature to convene in regular session on specified dates and provides that a majority of the membership constitutes a quorum, although a lesser number may recess from day to day and compel the attendance of absent members. The California Constitution requires the proceedings of each house of the Legislature to be open and public and recognizes the right of the public to attend, record, and broadcast those proceedings. The California Constitution authorizes the Legislature to provide for the convening of the Legislature to meet the needs resulting from a war-caused or enemy-caused disaster in the state.

This measure would permit Members to remotely attend and vote in a legislative proceeding, or to vote by proxy in a legislative proceeding if permitted by their house, during the pendency of a state of emergency declared by the Governor or the President of the United States, under specified conditions. The measure would provide, among other conditions, that a Member attending remotely would be included in the determination of a quorum.

The measure would provide that if $\frac{1}{5}$ or more of the Members of a house cannot attend a proceeding during a state of emergency because they are deceased, disabled, or missing, a quorum may be established by a majority of those Members able to attend. The measure would specify that the Legislature may provide by statute for temporarily filling the vacant offices of Members with pro tempore members in the event that $\frac{1}{5}$ or more of the Members of a house are deceased, disabled, or missing during a state of emergency.

The measure would permit the Legislature to restrict the public's physical access to a proceeding subject to this provision if warranted by the circumstances of the state of emergency or by the manner in which the proceeding was conducted, subject to an aggrieved party's right to challenge the restriction in a civil action.

The measure would require the Legislature by concurrent resolution, or each house by separate resolutions, $\frac{2}{3}$ of the membership concurring, to adopt rules to implement this provision no later than the end of the biennial legislative session in which this measure takes effect, except as specified.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

1 *Resolved by the Assembly, the Senate concurring,* That the
2 Legislature of the State of California at its 2019–20 Regular
3 Session commencing on the third day of December 2018,
4 two-thirds of the membership of each house concurring, hereby
5 proposes to the people of the State of California that the
6 Constitution of the State be amended as follows:
7 That Section 21.5 is added to Article IV thereof, to read:
8 SEC. 21.5. (a) To conduct the business of the people and to
9 maintain continuity of government, Members of the Legislature,
10 through the use of technology and without being physically present
11 in the State Capitol, may attend and vote remotely in a legislative
12 proceeding, or vote by proxy in a legislative proceeding if

1 authorized by their house pursuant to subdivision (h), during the
2 pendency of a state of emergency declared by the President of the
3 United States or the Governor.

4 (b) For purposes of remote participation in a legislative
5 proceeding during a state of emergency, the following shall apply:

6 (1) The vote of a Member remotely attending a proceeding shall
7 have the same force and effect as if the Member were physically
8 present in the State Capitol.

9 (2) A Member remotely attending a proceeding shall be included
10 in the determination of a quorum.

11 (3) Except as provided in paragraph (4), the participation of a
12 Member remotely attending a proceeding shall be included in the
13 audiovisual recording required by paragraph (2) of subdivision (c)
14 of Section 7.

15 (4) (A) A house, or the Legislature if a proceeding involves
16 Members from both houses, may waive the requirements of
17 paragraph (2) of subdivision (c) of Section 7 by a rollcall vote
18 entered in the journal, two-thirds of the membership concurring,
19 if compliance is not practicable under the circumstances of the
20 state of emergency.

21 (B) Notwithstanding paragraph (1) of subdivision (c) of Section
22 7, a house, or the Legislature if a proceeding involves Members
23 from both houses, may restrict the public's physical access to a
24 proceeding if such access is not practicable under the circumstances
25 of the state of emergency or due to the manner in which the
26 proceeding is conducted. Restrictions shall be no greater than
27 necessary to ensure the health and safety of Members, legislative
28 employees, and members of the public.

29 (C) An aggrieved party shall have standing to challenge a waiver
30 adopted pursuant to subparagraph (A), or a restriction made
31 pursuant to subparagraph (B), in an action for declaratory and
32 injunctive relief.

33 (c) As used in this section, "state of emergency" means the
34 existence of conditions of disaster or of extreme peril to the safety
35 of persons and property within the State, or parts thereof, including,
36 but not limited to, such conditions as an attack or probable or
37 imminent attack by an enemy of the United States, fire, flood,
38 storm, insurrection, earthquake, volcanic eruption, or pandemic
39 or other public health emergency.

1 (d) The Legislature, or each house, shall choose technology to
2 effectuate this section that furthers the goals of security, the
3 integrity and efficiency of the legislative process, and accessibility
4 for Members who participate in proceedings remotely and members
5 of the public who seek to view proceedings conducted by remote
6 participation.

7 (e) Notwithstanding any other provision of this Constitution, if
8 one-fifth or more of the Members of a house are unable to attend
9 a legislative proceeding during a state of emergency because they
10 are deceased, disabled, or missing, a quorum of the house shall be
11 established by a majority of its Members able to attend.

12 (f) The Legislature may provide by statute for the temporary
13 filling of vacant offices of Members with pro tempore members
14 in the event that one-fifth or more of the Members of a house are
15 deceased, disabled, or missing during a state of emergency.

16 (g) A Member's authorization to attend and vote remotely, and
17 to vote by proxy if applicable, shall end upon the termination of
18 the state of emergency.

19 (h) (1) The Legislature by concurrent resolution, or each house
20 by separate resolutions, shall, by rollcall vote entered in the journal,
21 two-thirds of the membership concurring, adopt rules to implement
22 this section before the end of the biennial legislative session in
23 which this section takes effect, or before the end of the next
24 biennial legislative session if this section takes effect between
25 sessions. The Legislature or each house, as applicable, may amend
26 rules adopted pursuant to this paragraph by subsequent resolution,
27 by rollcall vote entered in the journal, two-thirds of the membership
28 concurring.

29 (2) A resolution adopted pursuant to paragraph (1) shall specify
30 rules for remote attendance and voting, and shall include
31 procedures for authenticating a Member's remote attendance and
32 voting. The resolution may permit Members to vote by proxy, in
33 which case the resolution shall specify rules for this method of
34 voting and shall include procedures for authenticating a Member's
35 proxy vote.

36 (3) Until a resolution described in paragraph (1) is adopted and
37 applicable to a Member's house, a Member may remotely attend
38 and vote in proceedings as permitted by the Member's house.

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