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Assembly
California Legislature
Committee on Rules

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WICKS, BUFFY

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

Monday, September 9, 2019
Upon Call of the Chair
State Capitol, Room 3162

CONSENT AGENDA

BILL REFERRALS

1. Bill Referrals

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REQUEST TO WAIVE JOINT RULE 61 (A)

2. SB-1 (Atkins) California Environmental, Public Health, and Workers Defense Act of 2019.

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REQUEST TO WAIVE JOINT RULE 61(A)(14)

3. SB-222 (Hill) Discrimination: veteran or military status.

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CHIEF ADMINISTRATIVE OFFICER
DEBRA GRAVERT

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

Memo

To: Rules Committee Members
From: Michael Erke, Bill Referral Consultant
Date: 9/9/19
Re: Consent Bill Referral

Attached is a bill referral recommendation.

REFERRAL OF BILLS TO COMMITTEE

09/09/2019

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

Assembly Bill No.

Committee:

SJR 12

J., E.D., & E.

AMENDED IN ASSEMBLY SEPTEMBER 3, 2019

AMENDED IN ASSEMBLY JULY 1, 2019

AMENDED IN SENATE MAY 21, 2019

AMENDED IN SENATE APRIL 11, 2019

SENATE BILL

No. 1

Introduced by Senators Atkins, Portantino, and Stern
(Coauthor: Senator Hueso)
(Coauthor: Assembly Member Gloria)

December 3, 2018

An act to *add Section 2057 to, and to add and repeal Section 2017 of Sections 2017 and 2076.7 of, the Fish and Game Code, and to add and repeal Title 24 26 (commencing with Section 120000) of the Government Code, to add and repeal Section 116365.04 of the Health and Safety Code, and to amend Sections 13050, 13265, and 13350 of, and to add and repeal Sections 13250 and 13377.1 of, the Water Code, relating to public welfare.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1, as amended, Atkins. California Environmental, Public Health, and Workers Defense Act of 2019.

(1) The federal Clean Air Act regulates the discharge of air pollutants into the atmosphere. The federal Clean Water Act regulates the discharge of pollutants into water. The federal Safe Drinking Water Act establishes drinking water standards for drinking water systems. The federal Endangered Species Act of 1973 generally prohibits activities affecting threatened and endangered species listed pursuant to that act unless authorized by a permit from the United States Fish and Wildlife Service or the National Marine Fisheries Service, as appropriate.

Existing state law regulates the discharge of air pollutants into the atmosphere. The Porter-Cologne Water Quality Control Act regulates the discharge of pollutants into the waters of the state. The California Safe Drinking Water Act establishes standards for drinking water and regulates drinking water systems. The California Endangered Species Act requires the Fish and Game Commission to establish a list of endangered species and a list of threatened species, and generally prohibits the taking of those species.

This bill ~~would~~ *would, until January 20, 2025,* require specified agencies to take prescribed actions regarding certain federal requirements and standards pertaining to air, water, and protected species, as specified. By imposing new duties on local agencies, this bill would impose a state-mandated local program.

This bill would revise the definition of “waste” and “waters of the state” for purposes of the Porter-Cologne Water Quality Control Act and would revise the enforcement provisions of that act, as provided.

(2) Existing law provides for the enforcement of laws regulating the discharge of pollutants into the atmosphere and waters of the state. Existing law provides for the enforcement of drinking water standards. Existing law provides for the enforcement of the California Endangered Species Act.

This bill ~~would~~ *would, until January 20, 2025,* authorize a person acting in the public interest to bring an action to enforce certain ~~federal~~ standards if specified conditions are satisfied.

(3) Existing federal law, including the federal Fair Labor Standards Act of 1938, the federal Occupational Safety and Health Act of 1970, and the Federal Coal Mine Health and Safety Act of 1969, generally establishes standards for workers’ health and safety.

Existing state law, including the California Occupational Safety and Health Act of 1973, generally establishes standards for workers’ health and safety.

This bill ~~would~~ *would, until January 20, 2025,* require specified agencies to take prescribed actions regarding certain requirements and standards pertaining to workers’ health and safety.

~~(4) This bill would make the above provisions inoperative as of January 20, 2025, and would repeal them as of January 1, 2026.~~

~~(5)~~

(4) Existing law makes it unlawful to take a bird, mammal, fish, reptile, or amphibian, except as authorized by law.

This bill would make it unlawful for a person in California to transport, sell, *offer for sale*, *possess with the intent to sell*, receive, acquire, or purchase any fish, wildlife, or plant that was taken, possessed, transported, or sold in violation of any law, treaty, regulation, policy, or finding of the United States with regard to *national or* international trade of fish, wildlife, or plants in effect on January 19, 2017. The bill would make these provisions inoperative on January 20, 2025, and would repeal them on January 1, 2026.

Under existing law, a violation of the Fish and Game Code is a crime.

Because the above provision would be part of the Fish and Game Code, a violation of which would be a crime, this bill would impose a state-mandated local program.

(6)

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

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

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

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

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

- 1 SECTION 1. Section 2017 is added to the Fish and Game Code,
- 2 to read:
- 3 2017. (a) Unless otherwise authorized under state law, it is
- 4 unlawful for a person in this state to transport, sell, *offer for sale*,
- 5 *possess with the intent to sell*, receive, acquire, or purchase any
- 6 fish, wildlife, or plant that was taken, possessed, transported, or
- 7 sold in violation of any law, treaty, regulation, policy, or finding
- 8 of the United States with regard to *national or* international trade
- 9 of fish, wildlife, or plants in effect on January 19, 2017.
- 10 (b) Nothing in this section shall prohibit a person from
- 11 transporting, selling, receiving, acquiring, or purchasing any
- 12 cannabis or hemp as allowed under state law.

(c) (1) This section shall become inoperative on January 20, 2025, and, as of January 1, 2026, is repealed.

(2) Notwithstanding subparagraph (1), an action brought to enforce this section on or before January 20, 2025, may proceed to final judgment.

SEC. 2. Section 2057 is added to the Fish and Game Code, to read:

2057. The provisions of this chapter are measures “relating to the control, appropriation, use, or distribution of water” within the meaning of Section 8 of the federal Reclamation Act of 1902 (43 U.S.C. Sec. 383) and shall apply to the United States Bureau of Reclamation’s operation of the federal Central Valley Project.

SEC. 3. Section 2076.7 is added to the Fish and Game Code, to read:

2076.7. (a) Notwithstanding Sections 2071 to 2075.5, inclusive, in order to ensure no backsliding as a result of a decrease in endangered or threatened species protections by the federal government, the commission may consider whether to adopt a regulation that adds a species to the list of endangered species or to the list of threatened species as an emergency regulation pursuant to Chapter 3.5 (commencing with Section 399) of Division 1 if the commission determines, in consultation with the department, that a federal action subsequent to January 19, 2017, under the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.) results in a decrease in protection for that species and listing under this chapter could provide protection for that species. If the commission lists a species by emergency regulation pursuant to this section, the department shall promptly commence a status review pursuant to Sections 2074.6 and 2074.8, and the commission shall determine whether to list the species beyond the duration of the emergency pursuant to Sections 2075 and 2075.5.

(b) A federal action warranting a determination by the commission pursuant to subdivision (a) may include, but is not limited to, a decision by either the United States Fish and Wildlife Service or the National Marine Fisheries Service not to protect a species or to decrease protection to a species listed under the federal Endangered Species Act of 1973 that relies, in whole or in part, upon any amendments to regulations implementing the federal Endangered Species Act of 1973 that occurred after January 19, 2017.

1 (c) In authorizing the take of any species listed under this section
2 during the pendency of the emergency regulation, the commission,
3 in authorizing the take of any species pursuant to Section 2084,
4 or the department, in authorizing the take of any species pursuant
5 to this chapter, shall apply the protections provided by any federal
6 biological opinions, incidental take permits, incidental take
7 statements, or rules promulgated under Section 4(d) of the federal
8 Endangered Species Act of 1973, in effect as of January 19, 2017,
9 unless the commission or the department determines that those
10 protections do not satisfy the requirements of this chapter.

11 (d) The department shall monitor and report to the commission
12 at least quarterly with respect to any actions of the federal
13 government that may constitute an emergency as described in this
14 section.

15 (e) For authorizations issued by the department pursuant to
16 subdivision (c), the California Environmental Quality Act (Division
17 13 (commencing with Section 21000) of the Public Resources
18 Code) shall not apply.

19 (f) The Legislature intends that the commission and department
20 will be provided sustainable funding sufficient to fully implement
21 the requirements of this section and resulting obligations.

22 (g) The commission shall notify affected or interested persons
23 of the adoption of any emergency regulation under this section
24 pursuant to the methods described in Section 2074.4.

25 (h) This section is adopted to protect against direct challenges
26 to species protection from the current federal administration and
27 accordingly shall become inoperative on January 20, 2025, and,
28 as of January 1, 2026, is repealed.

29 ~~SEC. 2. Title 24 (commencing with Section 120000) is added~~
30 ~~to the Government Code, to read:~~

31 SEC. 4. Title 26 (commencing with Section 120000) is added
32 to the Government Code, to read:

1 TITLE ~~24-26~~. CALIFORNIA ENVIRONMENTAL, PUBLIC
2 HEALTH, AND WORKERS DEFENSE ACT OF 2019
3

4 DIVISION 1. GENERAL PROVISION
5

6 120000. This title shall be known, and may be cited, as the
7 California Environmental, Public Health, and Workers Defense
8 Act of 2019.
9

10 DIVISION 2. ENVIRONMENT, NATURAL RESOURCES,
11 PUBLIC HEALTH, AND WORKERS HEALTH AND SAFETY
12

13 CHAPTER 1. FINDINGS AND DECLARATIONS
14

15 120010. (a) The Legislature finds and declares all of the
16 following:

17 (1) For over eight decades, California and its residents have
18 relied on federal laws, including the federal Clean Air Act (42
19 U.S.C. Sec. 7401 et seq.), the Federal Water Pollution Control Act
20 (Clean Water Act) (33 U.S.C. Sec. 1251 et seq.), the federal Safe
21 Drinking Water Act (42 U.S.C. Sec. 300f et seq.), the federal
22 Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.),
23 the federal Fair Labor Standards Act of 1938 (29 U.S.C. Sec. 201
24 et seq.), the federal Occupational Safety and Health Act of 1970
25 (29 U.S.C. Sec. 651 et seq.), and the Federal Coal Mine Health
26 and Safety Act of 1969 (30 U.S.C. Sec. 801 et seq.), along with
27 their implementing regulations and remedies, to protect our state's
28 public health, safety, environment, and natural resources.

29 (2) These federal laws establish standards that serve as the
30 baseline level of public health, safety, and environmental
31 protection, while expressly authorizing states like California to
32 adopt more protective measures.

33 (3) Beginning in 2017, a new presidential administration and
34 United States Congress have signaled a series of direct challenges
35 to these federal laws and the protections they provide, as well as
36 to the underlying science that makes these protections necessary,
37 and to the rights of the states to protect their own environment,
38 natural resources, and public health and safety as they see fit.

39 (b) It is therefore necessary for the Legislature to enact
40 legislation that will ensure continued protections for the

1 environment, natural resources, and public health and safety in the
2 state even if the federal laws specified in paragraph (1) of
3 subdivision (a) are undermined, amended, or repealed.

4 120011. The purposes of this division are to do all of the
5 following:

6 (a) Retain protections afforded under the federal laws specified
7 in paragraph (1) of subdivision (a) of Section 120010 and
8 regulations implementing those federal laws in existence as of
9 January 19, 2017, regardless of actions taken at the federal level.

10 (b) Protect public health, safety, and welfare from any actual
11 or potential adverse effect that reasonably may be anticipated to
12 occur from hazards and pollution, including the effects of climate
13 change.

14 (c) Preserve, protect, and enhance the environment and natural
15 resources in California, including, but not limited to, the state's
16 national parks, national wilderness areas, national monuments,
17 national seashores, and other areas with special national or regional
18 natural, recreational, scenic, or historic value.

19 (d) Prevent work-related and environmental illness, injury, or
20 death from chemicals and other pollutants and hazards.

21 (e) Ensure that economic growth will occur in a manner
22 consistent with the protection of public health and safety and the
23 environment, and the preservation of existing natural resources.

24 (f) Ensure that any decision made by a public agency that may
25 adversely impact public health and safety, the environment, or
26 natural resources is made only after careful evaluation of all the
27 consequences of that decision and after adequate procedural
28 opportunities for informed public participation in the
29 decisionmaking process.

30 CHAPTER 2. GENERAL PROVISIONS

31
32
33 120030. (a) A state agency may adopt standards or
34 requirements pursuant to this title, including, but not limited to,
35 by emergency regulations in accordance with Chapter 3.5
36 (commencing with Section 11340) of Part 1 of Division 3 of Title
37 2.

38 (b) The adoption of emergency regulations in furtherance of
39 this title shall be deemed an emergency and necessary for the

1 immediate preservation of the public peace, health, and safety, or
2 general welfare.

3 (c) Notwithstanding Chapter 3.5 (commencing with Section
4 11340) of Part 1 of Division 3 of Title 2, emergency regulations
5 adopted by a state agency under this title shall not be subject to
6 review by the Office of Administrative Law and shall remain in
7 effect until revised or repealed by the state agency, or January 20,
8 2025, whichever comes first, ~~as long as the emergency regulations~~
9 ~~adopt the baseline federal standard without substantial~~
10 ~~modification.~~ *first.*

11 CHAPTER 3. OPERATIVE PROVISIONS

12 Article 1. Air

13
14
15
16 120040. For purposes of this article, the following definitions
17 apply:

18 (a) “Air district” means an air quality management or air
19 pollution control district.

20 (b) “Baseline federal standards” means federal standards in
21 effect as of January 19, 2017, that were not otherwise permanently
22 enjoined by a federal court as of that date.

23 (c) “Federal standards” means federal laws or federal regulations
24 implementing the federal Clean Air Act (42 U.S.C. Sec. 7401 et
25 seq.), *and which may affect the achievement and maintenance of*
26 *any federal ambient air quality standard, hazardous air pollutant*
27 *standard, or greenhouse gas emission reduction applicable to the*
28 *state*, including, but not limited to, federal requirements for a state
29 implementation plan, federal requirements for the transportation
30 conformity program, and federal requirements for the prevention
31 of significant deterioration.

32 (d) “State analogue statute” means the California Global
33 Warming Solutions Act of 2006 (Division 25.5 (commencing with
34 Section 38500) of the Health and Safety Code) or Division 26
35 (commencing with Section 39000) of the Health and Safety Code.

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

37 120041. Except as otherwise authorized by state law, all of the
38 following apply:

39 (a) The state board shall regularly assess proposed and final
40 changes to the federal standards.

1 (b) (1) At least ~~quarterly~~, *once every six months*, the state board
2 shall publish on its internet website and in the California
3 Regulatory Notice Register a list of changes made to the *baseline*
4 federal standards that may ~~impact California and provide an~~
5 ~~assessment on whether a change made to the federal standards is~~
6 ~~less protective of public health and safety, the environment, natural~~
7 ~~resources, or worker health and safety than the baseline federal~~
8 ~~standards. affect the achievement and maintenance of any federal~~
9 ~~ambient air quality standard, hazardous air pollutant standard,~~
10 ~~or greenhouse gas emission reduction applicable to the state that~~
11 ~~are subject to the jurisdiction of the state board. The state board~~
12 ~~may opt not to publish this report if it determines, by majority vote~~
13 ~~in a public meeting, that there has been no change to a federal~~
14 ~~standard as compared to the baseline federal standard during an~~
15 ~~applicable six-month time period, and notifies the appropriate~~
16 ~~policy and fiscal committees of the Legislature.~~

17 (2) If the state board determines that a change to the federal
18 standards ~~is less protective of public health and safety, the~~
19 ~~environment, natural resources, or worker health and safety than~~
20 ~~the baseline federal standards, may affect the achievement and~~
21 ~~maintenance of any federal ambient air quality standard,~~
22 ~~hazardous air pollutant standard, or greenhouse gas emission~~
23 ~~reduction applicable to the state, the state board shall consider~~
24 ~~whether it should adopt a measure or use a nonregulatory option~~
25 ~~in order to maintain the state's protections to be at least as stringent~~
26 ~~protective as the baseline federal standards.~~

27 (3) The state board shall publish its list, ~~assessment, any~~
28 ~~preliminary determinations,~~ and consideration for adoption at least
29 30 days before a vote on adoption on its internet website for public
30 comment.

31 (c) If the state board decides to adopt a measure pursuant to
32 subdivision (b), the state board shall adopt the measure by either
33 of the following procedures:

34 (1) As an emergency regulation in accordance with Section
35 120030.

36 (2) By promulgation or amendment of a state policy, plan, or
37 regulation.

38 (d) Notwithstanding any other law, the state board, when
39 adopting a measure under paragraph (2) of subdivision (c) may
40 adopt those measures in accordance with Section 100 of Title 1 of

1 the California Code of Regulations and the measures shall be
2 deemed to be a change without regulatory effect pursuant to
3 paragraph (6) of subdivision (a) of that section and not subject to
4 additional notice, procedural, or other considerations contained in
5 state analogue statutes identified in this article, as long as the
6 measure adopts the baseline federal standards without substantial
7 modification. *considerations*. Nothing in this chapter shall affect
8 the imposition of sanctions under the federal Clean Air Act (42
9 U.S.C. Sec. 7401 et seq.).

10 (e) ~~In the event that the citizen suit provision set forth in Section~~
11 ~~7604 of Title 42 of the United States Code is amended to~~
12 ~~substantially restrict, condition, abridge, or repeal the citizen suit~~
13 ~~provision, including by limiting recovery of fees and costs, an~~
14 ~~action may be brought pursuant to Section 120042 to enforce the~~
15 ~~baseline federal standards, state standards enacted pursuant to the~~
16 ~~federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.), or other permit~~
17 ~~conditions as authorized pursuant to the federal Clean Air Act,~~
18 ~~and for which a cause of action was available pursuant to Section~~
19 ~~7604 of Title 42 of the United States Code for those baseline~~
20 ~~federal standards, state standards, or permit conditions as of~~
21 ~~January 19, 2017.~~

22 (f)

23 (e) This article does not prohibit the state board or air districts
24 from establishing rules and regulations for California that are more
25 stringent than the baseline federal standards.

26 120042. (a) An action may be brought *in superior court* by a
27 person in the public interest ~~exclusively to enforce baseline federal~~
28 ~~standards adopted as a measure pursuant to subdivision (c) of~~
29 ~~Section 120041 if citizen suit enforcement of the newly adopted~~
30 ~~standard is no longer available under federal law or an~~ *against the*
31 *owner or operator of a source alleged to be in violation of any*
32 *measure adopted under this article by the state board if the citizen*
33 *suit provision set forth in Section 7604 of Title 42 of the United*
34 *States Code is amended to substantially restrict, condition, abridge,*
35 *or repeal the citizen suit provision, including by limiting recovery*
36 *of fees and costs.*

37 (b) ~~An action may be brought by that person pursuant to~~
38 ~~subdivision (c) of that pursuant to this section if all both of the~~
39 following requirements are met:

(1) At least 60 days before initiating the action, a complainant provides a written notice to the Attorney General and the counsel for the state board, ~~a district attorney, county counsel, and counsel of for the air district, and prosecutor~~ *district and district attorney* in whose jurisdiction the violation is alleged to have occurred, and the ~~defendant~~ *defendant*, identifying the specific provisions of the measure alleged to be violated.

(2) The Attorney General, ~~a district attorney, a city attorney, county counsel, counsel of the state board, and counsel of an air district, or a prosecutor for the air district and the district attorney~~ *in whose jurisdiction the violation is alleged to have occurred* has not commenced an action or has not been diligently prosecuting ~~the an administrative, civil, or criminal action.~~

~~(b)~~

(c) Upon filing the action, ~~as well as serving the defendant, the complainant shall notify the Attorney General that the action has been filed.~~ *serve a copy of the action to the Attorney General, the counsel for the state board, and the counsel for the air district and the district attorney in whose jurisdiction the violation is alleged to have occurred.*

~~(e) The court may award attorney's fees pursuant to Section 1021.5 of the Code of Civil Procedure, and expert fees and court costs pursuant to Section 1032 of the Code of Civil Procedure, as appropriate, for an action brought pursuant to this section.~~

(d) *Notwithstanding any other law requiring or authorizing higher penalties, civil penalties for a violation of any measure adopted pursuant to this article shall not exceed twenty-five thousand dollars (\$25,000) per day of violation. All penalties assessed and recovered in a civil action brought pursuant to this section or by settlement shall be deposited in the Air Pollution Control Fund created pursuant to Section 43015 of the Health and Safety Code and separately accounted for in that fund. Those moneys shall be expended by the state board, upon appropriation by the Legislature, consistent with the purposes of the Air Pollution Control Fund. A citizen who prevails in a suit pursuant to this section shall be entitle to attorney's fees and costs from the defendant, and may recover in proportion to the success of the claim if not all claims are adjudicated in their favor.*

~~(d)~~

1 (e) This section does not limit other remedies and protections
2 available under state or federal law.

3
4 Article 2. Water
5

6 120050. For purposes of this article, the following definitions
7 apply:

8 (a) “Baseline federal standards” means federal standards in
9 effect as of January 19, 2017, that were not otherwise permanently
10 enjoined by a federal court as of that date.

11 (b) “Board” means the State Water Resources Control Board.

12 (c) “Federal standards” means federal laws or federal regulations
13 implementing the federal Safe Drinking Water Act (42 U.S.C. Sec.
14 300f et seq.) and the Federal Water Pollution Control Act (33
15 U.S.C. Sec. 1251 et seq.) in effect as of January 19, 2017,
16 including, but not limited to, water quality standards, effluent
17 limitations, and drinking water standards.

18 (d) “Regional board” means a regional water quality control
19 board.

20 (e) “State analogue statute” mean the Porter-Cologne Water
21 Quality Control Act (Division 7 (commencing with Section 13000)
22 of the Water Code) or the California Safe Drinking Water Act
23 (Chapter 4 (commencing with Section 116270) of Part 12 of
24 Division 103 of the Health and Safety Code).

25 ~~120051. Except as otherwise authorized by state law, all of the~~
26 ~~following apply:~~

27 ~~(a) The board shall regularly assess proposed and final changes~~
28 ~~to the federal standards:~~

29 ~~(b) (1) At least quarterly, the board shall publish on its internet~~
30 ~~website and in the California Regulatory Notice Register a list of~~
31 ~~changes made to the federal standards that may impact California~~
32 ~~and provide an assessment on whether a change made to the federal~~
33 ~~standards is less protective of public health and safety, the~~
34 ~~environment, natural resources, or worker health and safety than~~
35 ~~the baseline federal standards:~~

36 ~~(2) If the board determines that a change to the federal standards~~
37 ~~is less protective of public health and safety, the environment,~~
38 ~~natural resources, or worker health and safety than the baseline~~
39 ~~federal standards, the board shall consider whether it should adopt~~

1 a measure in order to maintain the state's protections to be at least
2 as stringent as the baseline federal standards.

3 ~~(3) The state board shall publish its list, assessment, and~~
4 ~~consideration for adoption at least 30 days before a vote on~~
5 ~~adoption on its internet website for public comment.~~

6 ~~(c) If the board decides to adopt a measure pursuant to~~
7 ~~subdivision (b), the board shall adopt the measure by either of the~~
8 ~~following procedures:~~

9 ~~(1) As an emergency regulation in accordance with Section~~
10 ~~120030.~~

11 ~~(2) By promulgation or amendment of a state policy for water~~
12 ~~quality control, a water quality control plan, or regulation.~~

13 ~~(d) Notwithstanding any other law, the board, when adopting a~~
14 ~~measure under paragraph (2) of subdivision (c) may adopt those~~
15 ~~measures in accordance with Section 100 of Title 1 of the~~
16 ~~California Code of Regulations and the measures shall be deemed~~
17 ~~to be a change without regulatory effect pursuant to paragraph (6)~~
18 ~~of subdivision (a) of that section and not subject to additional~~
19 ~~notice, procedural, or other considerations contained in state~~
20 ~~analogue statutes identified in this article, as long as the measure~~
21 ~~adopts the baseline federal standard without substantial~~
22 ~~modification. Nothing in this chapter shall affect the imposition~~
23 ~~of sanctions under the federal Safe Drinking Water Act (42 U.S.C.~~
24 ~~Sec. 300f et seq.) or the Federal Water Pollution Control Act (33~~
25 ~~U.S.C. Sec. 1251 et seq.).~~

26 ~~(e) (1) In the event that the citizen suit provision set forth in~~
27 ~~Section 1365 of Title 33 of the United States Code is amended to~~
28 ~~substantially restrict, condition, abridge, or repeal the citizen suit~~
29 ~~provision, including limiting the recovery of fees and costs, an~~
30 ~~action may be brought pursuant to Section 120052 to enforce the~~
31 ~~baseline federal standards, state standards enacted pursuant to the~~
32 ~~Porter-Cologne Water Quality Control Act (Division 7~~
33 ~~(commencing with Section 13000) of the Water Code), as~~
34 ~~authorized pursuant to Title 33 of the United States Code, or other~~
35 ~~waste discharge requirements as authorized pursuant to the Section~~
36 ~~1342(b) of Title 33 of the United States Code, and for which a~~
37 ~~cause of action was available pursuant to Section 1365 of Title 33~~
38 ~~of the United States Code for those baseline federal standards,~~
39 ~~state standards, or waste discharge requirements as of January 19,~~
40 ~~2017.~~

~~(2) In the event that the citizen suit provision set forth in Section 300j-8 of Title 42 of the United States Code is amended to substantially restrict, condition, abridge, or repeal the citizen suit provision, including limiting the recovery of fees and costs, an action may be brought pursuant to Section 120052 to enforce the baseline federal standards, state standards enacted pursuant to the California Safe Drinking Water Act (Chapter 4 (commencing with Section 116270) of Part 12 of Division 103 of the Health and Safety Code), as authorized pursuant to Section 300g-2 of Title 42 of the United States Code, or other permit conditions as authorized pursuant to Section 300g-2 of Title 42 of the United States Code, and for which a cause of action was available pursuant to Section 300j-8 of Title 42 of the United States Code for those baseline federal standards, state standards, or permit conditions as of January 19, 2017.~~

~~(f) This article does not prohibit the board or the regional boards from establishing rules and regulations for California that are more stringent than the baseline federal standards.~~

~~120052.—(a)~~

120051. (a) (1) In the event that the citizen suit provision set forth in Section 1365 of Title 33 of the United States Code is amended to substantially restrict, condition, abridge, or repeal the citizen suit provision, including limiting the recovery of fees and costs, an action may be brought in superior court by a person in the public interest to enforce baseline federal standards, state standards incorporated by or adopted under the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code), as authorized pursuant to Title 33 of the United States Code, or other waste discharge requirements, as authorized pursuant to the Section 1342(b) of Title 33 of the United States Code, and for which a cause of action was available pursuant to Section 1365 of Title 33 of the United States Code, and implementing regulations, in effect on January 19, 2017, for those baseline federal standards, state standards, or waste discharge requirements.

(2) In the event that the citizen suit provision set forth in Section 300j-8 of Title 42 of the United States Code is amended to substantially restrict, condition, abridge, or repeal the citizen suit provision, including limiting the recovery of fees and costs, an action may be brought in superior court by a person in the public

1 *interest to enforce the baseline federal standards, state standards*
2 *enacted pursuant to the California Safe Drinking Water Act*
3 *(Chapter 4 (commencing with Section 116270) of Part 12 of*
4 *Division 103 of the Health and Safety Code), as authorized*
5 *pursuant to Section 300g-2 of Title 42 of the United States Code,*
6 *or other permit conditions as authorized pursuant to Section*
7 *300g-2 of Title 42 of the United States Code, and for which a cause*
8 *of action was available pursuant to Section 300j-8 of Title 42 of*
9 *the United States Code in effect on January 19, 2017, for those*
10 *baseline federal standards, state standards, or permit conditions.*

11 *(b) An action may be brought in the superior court by a person*
12 *in the public interest exclusively to enforce baseline federal*
13 *standards adopted as a measure pursuant to subdivision (c) of*
14 *Section 120051 in effect pursuant to Section 116365.04 of the*
15 *Health and Safety Code, or Section 13250 or 13377.1 of the Water*
16 *Code, if citizen suit enforcement of the newly adopted those*
17 *standards is no longer available under federal law or an action may*
18 *be brought by that person pursuant to subdivision (c) of that section*
19 *if all of the following requirements are met: law.*

20 *(1)*

21 *(c) At least 60 days before initiating the action, a complainant*
22 *provides an action pursuant to this section, the plaintiff shall*
23 *provide a written notice to the board, the Attorney General and*
24 *the counsel for the board, General, and the regional board, a*
25 *district attorney, county counsel, counsel of the regional board,*
26 *and prosecutor in whose jurisdiction the violation is alleged to*
27 *have occurred, and the defendant to the alleged violator identifying*
28 *the specific provisions of the measure alleged to be violated.*
29 *violation alleged.*

30 *(2) The Attorney General, a district attorney, a city attorney,*
31 *county counsel, counsel of the board, counsel of a regional board,*
32 *or a prosecutor has not commenced an action or has not been*
33 *diligently prosecuting the action.*

34 *(d) An action shall not be commenced pursuant to this section*
35 *if the United States Environmental Protection Agency, the board,*
36 *the Attorney General, or a regional board, a district attorney, a*
37 *city attorney, a county counsel, or a prosecutor in whose*
38 *jurisdiction the violation is alleged to have occurred has*
39 *commenced and is diligently prosecuting an administrative, civil,*
40 *or criminal enforcement proceeding against the alleged violator.*

1 ~~(b)~~

2 (e) Upon filing the action, the complainant shall notify the
3 Attorney General that the action has been filed.

4 ~~(c)~~

5 (f) The court may award attorney's fees pursuant to Section
6 1021.5 of the Code of Civil Procedure, and expert fees and court
7 costs pursuant to Section 1032 of the Code of Civil Procedure, as
8 appropriate, for an action brought pursuant to this section.

9 (g) *Civil penalties that may be imposed by a superior court for*
10 *an action brought pursuant to this section are those that would*
11 *have been available under the Federal Water Pollution Control*
12 *Act (33 U.S.C. Sec. 1251 et seq.) or the federal Safe Drinking*
13 *Water Act (42 U.S.C. Sec. 300f et seq.) and their implementing*
14 *regulations, in effect on January 19, 2017, if those provisions were*
15 *still in effect and any baseline federal standard being enforced*
16 *were still enforceable under those provisions. Notwithstanding*
17 *any law requiring or authorizing higher penalties, civil penalties*
18 *assessed pursuant to this section shall not exceed the civil penalty*
19 *levels under Part 19 (commencing with Section 19.1) of Subchapter*
20 *A of Chapter 1 of Title 40 of the Code of Federal Regulations.*
21 *Penalties assessed and recovered in a civil action brought pursuant*
22 *to this section shall be deposited in the Waste Discharge Permit*
23 *Fund created pursuant to Section 13260 of the Water Code and*
24 *separately accounted for in that fund. Those moneys shall be*
25 *expended by the board, upon appropriation by the Legislature, to*
26 *assist regional boards, and other public agencies with authority*
27 *to clean up waste or abate the effects of the waste, in cleaning up*
28 *or abating the effects of the waste on waters of the state or for the*
29 *purposes authorized in Section 13443 of the Water Code. This*
30 *subdivision shall not apply to settlement agreements or consent*
31 *decrees.*

32 ~~(d)~~

33 (h) This section does not limit other remedies and protections
34 available under state or federal law.

35 ~~120053.~~

36 120052. ~~(a)~~—This article does not affect the process by which
37 voluntary agreements are entered into to assist in the
38 implementation of new water quality standards lawfully adopted
39 by the board.

~~(b) It is the intent of the Legislature that the process by which voluntary agreements are entered into is separate and distinct from law and regulations, including federal baseline standards, under which the Central Valley Project and the State Water Project are subject to the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.) and the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code).~~

~~Article 3. Endangered and Threatened Species~~

~~120060.— For purposes of this article, “baseline federal standards” means the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.) in effect as of January 19, 2017, its implementing regulations, and any incidental take permits, incidental take statements, or biological opinions in effect as of January 19, 2017, that were not otherwise permanently enjoined by a federal court as of that date.~~

~~120061.— Except as otherwise authorized by state law, the following apply:~~

~~(a) To ensure no backsliding as a result of any change to the baseline federal standards, the Fish and Game Commission shall determine whether to list, in accordance with subdivision (b), a species, subspecies, or distinct population segment under the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code) in the event either of the following occurs:~~

~~(1) The federal delisting of the species, subspecies, or distinct population segment that is eligible for protection under the California Endangered Species Act and that is listed as endangered or threatened pursuant to the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.) as of January 19, 2019.~~

~~(2) A change in the legally protected status of the species, subspecies, or distinct population segment, including through a change in listing from endangered to threatened, the adoption of a rule pursuant to Section 4(d) of the federal Endangered Species Act of 1973, or any amendment to the federal baseline standard.~~

~~(b) The Fish and Game Commission shall list the affected species, subspecies, or distinct population segment identified in subdivision (a), pursuant to subdivision (c) and without following~~

1 the regular listing process set forth in Article 2 (commencing with
2 Section 2070) of Chapter 1.5 of Division 3 of the Fish and Game
3 Code, no later than the conclusion of its second regularly scheduled
4 meeting or within three months, whichever is shorter, after the
5 occurrence of the event described in subdivision (a) unless either
6 the Fish and Game Commission determines that listing of the
7 species, subspecies, or distinct population segment is not warranted
8 because it does not meet the criteria in Chapter 1.5 (commencing
9 with Section 2050) of Division 3 of the Fish and Game Code or
10 its implementing regulations or the Department of Fish and
11 Wildlife recommends that the species, subspecies, or distinct
12 population segment undergo the regular listing process. If the
13 Department of Fish and Wildlife makes a recommendation that
14 the species, subspecies, or distinct population segment undergo
15 the regular listing process, the Fish and Game Commission shall
16 either accept the recommendation, in which event the Fish and
17 Game Commission shall be deemed to have accepted a petition
18 for listing the species, subspecies, or distinct population segment
19 pursuant to paragraph (2) of subdivision (c) of Section 2074.2 of
20 the Fish and Game Code, or reject the recommendation and
21 immediately list the species, subspecies, or distinct population
22 segment pursuant to this subdivision.

23 (c) Notwithstanding any other law or regulation, because a
24 decision by the Fish and Game Commission to list a species,
25 subspecies, or distinct population segment without following the
26 regular listing process becomes effective immediately, the Fish
27 and Game Commission shall add that species, subspecies, or
28 distinct population segment to the list of endangered or threatened
29 species, and the addition of that species, subspecies, or distinct
30 population segment to the list shall be deemed to be a change
31 without regulatory effect pursuant to paragraph (6) of subdivision
32 (a) of that section.

33 (d) (1) Upon the listing of any species, subspecies, or distinct
34 population segment under this section, the Fish and Game
35 Commission or the Department of Fish and Wildlife may authorize
36 the taking of such species, subspecies, or distinct population
37 segment as otherwise provided for in the Fish and Game Code. In
38 lieu of authorizing take under the provisions of Chapter 1.5
39 (commencing with Section 2050) of Division 3 of the Fish and
40 Game Code, the Fish and Game Commission or the Department

1 of Fish and Wildlife may adopt the terms and conditions of any
2 rule promulgated under Section 4(d) of the federal Endangered
3 Species Act of 1973, federal incidental take statement, incidental
4 take permit, or biological opinion in effect at the time of the event
5 described in subdivision (a).

6 (2) The Department of Fish and Wildlife shall ensure that
7 protections remain in place pursuant to regulation, incidental take
8 permit, or consistency determination that are at least as protective
9 of public health and safety, the environment, or natural resources
10 as required by the baseline federal standards, as determined by the
11 Department of Fish and Wildlife, and according to the best
12 available science.

13 (3) This subdivision does not prohibit the Department of Fish
14 and Wildlife from establishing conditions that are more stringent
15 than the baseline federal standards.

16 (e) Any species, subspecies, or distinct population segment
17 listed pursuant to this section shall be subject to the provisions in
18 the California Endangered Species Act in the same manner as any
19 other listed species, subspecies, or distinct population segment,
20 including those provisions related to a change in listing status or
21 delisting.

22 (f) For those species, subspecies, or distinct population segment
23 that the Fish and Game Commission lists pursuant to subdivision
24 (b), or actions taken pursuant to subdivision (d) to ensure that
25 protections remain in place that are at least as protective as baseline
26 federal standards, the California Environmental Quality Act
27 (Division 13 (commencing with Section 21000) of the Public
28 Resources Code) shall not apply.

29 (g) The provisions of the California Endangered Species Act
30 are measures “relating to the control, appropriation, use, or
31 distribution of water” within the meaning of Section 8 of the federal
32 Reclamation Act of 1902 (43 U.S.C. Sec. 383) and shall apply to
33 the United States Bureau of Reclamation’s operation of the federal
34 Central Valley Project.

35
36 Article 4.3. Worker Health and Safety

37
38 120070. For purposes of this article, the following definitions
39 apply:

1 (a) “Baseline federal standards” means federal standards in
2 effect as of January 19, 2017, that were not otherwise permanently
3 enjoined by a federal court as of that date.

4 (b) “Board” means the Occupational Safety and Health
5 Standards Board.

6 (c) “Department” means the Department of Industrial Relations.

7 (d) “Federal standards” means health and safety standards set
8 forth in the federal Fair Labor Standards Act of 1938, as amended
9 (29 U.S.C. Sec. 201 et seq.), the federal Occupational Safety and
10 Health Act of 1970, as amended (29 U.S.C. Sec. 651 et seq.), the
11 Federal Coal Mine Health and Safety Act of 1969, as amended
12 (30 U.S.C. Sec. 801 et seq.), or in regulations and guidelines
13 established pursuant to those federal statutes.

14 (e) “State analogue statute” means the Labor Code, including
15 the California Occupational Safety and Health Act of 1973
16 (Division 5 (commencing with Section 6300) of the Labor Code).

17 120071. Except as otherwise authorized by state law, all of the
18 following apply:

19 (a) The board and the department shall ~~regularly~~ assess proposed
20 and final changes *made after January 19, 2017*, to the federal
21 standards.

22 (b) (1) At least quarterly, the board and the department shall
23 publish on their internet websites and in the California Regulatory
24 Notice Register a list of changes made to the federal standards and
25 provide an assessment on whether a change made to the federal
26 standards is more or less protective of worker health and safety
27 than the baseline federal standards.

28 (2) If the board or the department, as appropriate, determines
29 that a change to the federal standards is less protective of worker
30 health and safety than the baseline federal standards, the board *or*
31 *the department, as appropriate, shall assess whether current*
32 *corresponding state standards are at least as protective as the*
33 *baseline federal standards. If the current corresponding state*
34 *standards are not at least as protective as the baseline federal*
35 *standards, the board or department, as appropriate, shall consider*
36 *whether it should adopt the baseline federal standards as a measure*
37 *in order to* ~~maintain~~ *ensure that the state’s protections* ~~to be~~ *are*
38 *at least as stringent as the baseline federal standards.*

1 (3) The board and the department shall publish its list,
2 assessment, and consideration for adoption at least 30 days before
3 a vote on adoption on its internet website for public comment.

4 (c) If the board or the department, as appropriate, decides to
5 adopt a measure pursuant to subdivision (b), the board or the
6 department shall adopt the measure by either of the following:

7 (1) An emergency regulation in accordance with Section 120030.

8 (2) A promulgation or amendment of a state policy, plan, or
9 regulation.

10 (d) Notwithstanding any other law, the board or department, as
11 appropriate, when adopting a measure under subdivision (c) may
12 adopt those measures in accordance with Section 100 of Title 1 of
13 the California Code of Regulations, and the measures shall be
14 deemed to be a change without regulatory effect pursuant to
15 paragraph (6) of subdivision (a) of that section and not subject to
16 additional notice, procedural, or other considerations contained in
17 state analogue statutes, as long as the measure adopts the baseline
18 federal ~~standard~~ standards without substantial modification.

19 (e) This article does not prohibit the board or the department
20 from establishing rules and regulations for California that are more
21 stringent than the baseline federal standards.

22 23 DIVISION 3. MISCELLANEOUS 24

25 120100. The provisions of this title are severable. If any
26 provision of this title or its application is held invalid, that
27 invalidity shall not affect other provisions or applications that can
28 be given effect without the invalid provision or application.

29 120102. (a) This title shall become inoperative on January 20,
30 2025, and, as of January 1, 2026, is repealed.

31 (b) Notwithstanding subdivision (a), any action brought pursuant
32 to this title on or before January 20, 2025, may proceed to a final
33 judgment.

34 *SEC. 5. Section 116365.04 is added to the Health and Safety*
35 *Code, to read:*

36 *116365.04. (a) This section applies to a national primary*
37 *drinking water standard adopted by the United States*
38 *Environmental Protection Agency and is in effect on January 19,*
39 *2017, except where the United States Environmental Protection*
40 *Agency adopts a more stringent standard after January 19, 2017.*

1 ***(b) (1) On or before June 30, 2020, the state board shall adopt***
2 ***a primary drinking water standard at least as stringent as the***
3 ***national primary drinking water standard that was in effect on***
4 ***January 19, 2017.***

5 ***(2) If the state’s primary drinking water standard is not***
6 ***materially different in substance and effect than the requirements***
7 ***of the national primary drinking water standard that was in effect***
8 ***on January 19, 2017, the state board may adopt the primary***
9 ***drinking water standard pursuant to subdivision (a) as an***
10 ***emergency regulation, even if the national standard has been***
11 ***repealed or replaced by a less stringent standard. The adoption***
12 ***of a regulation pursuant to this paragraph is an emergency and***
13 ***shall be considered by the Office of Administrative Law as***
14 ***necessary for the immediate preservation of the public peace,***
15 ***health, safety, and general welfare. Notwithstanding Chapter 3.5***
16 ***(commencing with Section 11340) of Part 1 of Division 3 of Title***
17 ***2 of the Government Code, an emergency regulation adopted by***
18 ***the state board pursuant to this section is not subject to review by***
19 ***the Office of Administrative Law and shall remain in effect until***
20 ***revised by the state board. Notwithstanding Section 15300.2 of***
21 ***Title 14 of the California Code of Regulations, actions of the state***
22 ***board under this paragraph shall be deemed to be within Section***
23 ***15308 of Title 14 of the California Code of Regulations, provided***
24 ***that those actions do not involve relaxation of primary drinking***
25 ***water standards in effect under this chapter.***

26 ***(c) This section is not a limitation on the authority of the state***
27 ***board to do either of the following:***

28 ***(1) To adopt a primary drinking water standard that maintains***
29 ***or provides greater protection of the health of persons than***
30 ***provided by a national primary drinking water standard that was***
31 ***in effect on January 19, 2017.***

32 ***(2) To adopt a regulation under subdivision (j) of section 116365***
33 ***in lieu of establishing a maximum contaminant level.***

34 ***(d) This section shall become inoperative on January 20, 2025,***
35 ***and, as of January 1, 2026, is repealed.***

36 ***SEC. 6. Section 13050 of the Water Code is amended to read:***

37 ***13050. As used in this division:***

38 ***(a) “State board” means the State Water Resources Control***
39 ***Board.***

1 (b) “Regional board” means any California regional water
2 quality control board for a region as specified in Section 13200.

3 (c) “Person” includes any city, county, district, the state, and
4 the United States, to the extent authorized by federal law.

5 (d) (1) “Waste” includes sewage and any and all other
6 *pollutants, dredged or fill materials, or waste substances, liquid,*
7 *solid, gaseous, or radioactive, associated with human habitation,*
8 *or of human or animal origin, or from any producing,*
9 *manufacturing, or processing operation, including waste placed*
10 *within containers of whatever nature prior to, and for purposes of,*
11 *disposal.*

12 (2) *The amendments made to paragraph (1) by Senate Bill 1 of*
13 *the 2019–20 Regular Session do not constitute a change in, but*
14 *are declaratory of, existing law.*

15 (e) (1) “Waters of the state” means any surface water or
16 groundwater, including saline waters, within the boundaries of the
17 state. “Waters of the state” *includes, but is not limited to, all waters*
18 *that meet any current or historic definition of “water of the United*
19 *States” promulgated by the United States Environmental Protection*
20 *Agency or the United States Army Corps of Engineers to implement*
21 *the Federal Water Pollution Control Act of 1972 (33 U.S.C. Sec.*
22 *1251 et seq.), as amended.*

23 (2) *The amendments made to paragraph (1) by Senate Bill 1 of*
24 *the 2019–20 Regular Session do not constitute a change in, but*
25 *are declaratory of, existing law.*

26 (f) “Beneficial uses” of the waters of the state that may be
27 protected against quality degradation include, but are not limited
28 to, domestic, municipal, agricultural and industrial supply; power
29 generation; recreation; aesthetic enjoyment; navigation; and
30 preservation and enhancement of fish, wildlife, and other aquatic
31 resources or preserves.

32 (g) “Quality of the water” refers to chemical, physical,
33 biological, bacteriological, radiological, and other properties and
34 characteristics of water ~~which~~ *that* affect its use.

35 (h) “Water quality objectives” means the limits or levels of
36 water quality constituents or characteristics ~~which~~ *that* are
37 established for the reasonable protection of beneficial uses of water
38 or the prevention of nuisance within a specific area.

39 (i) “Water quality control” means the regulation of any activity
40 or factor ~~which~~ *that* may affect the quality of the waters of the

1 state and includes the prevention and correction of water pollution
2 and nuisance.

3 (j) “Water quality control plan” consists of a designation or
4 establishment for the waters within a specified area of all of the
5 following:

6 (1) Beneficial uses to be protected.

7 (2) Water quality objectives.

8 (3) A program of implementation needed for achieving water
9 quality objectives.

10 (k) “Contamination” means an impairment of the quality of the
11 waters of the state by waste to a degree ~~which~~ *that* creates a hazard
12 to the public health through poisoning or through the spread of
13 disease. “Contamination” includes any equivalent effect resulting
14 from the disposal of waste, whether or not waters of the state are
15 affected.

16 (l) (1) “Pollution” means an alteration of the quality of the
17 waters of the state by waste to a degree ~~which~~ *that* unreasonably
18 affects either of the following:

19 (A) The waters for beneficial uses.

20 (B) Facilities ~~which~~ *that* serve these beneficial uses.

21 (2) “Pollution” may include “contamination.”

22 (m) “Nuisance” means anything ~~which~~ *that* meets all of the
23 following requirements:

24 (1) Is injurious to health, or is indecent or offensive to the senses,
25 or an obstruction to the free use of property, so as to interfere with
26 the comfortable enjoyment of life or property.

27 (2) Affects at the same time an entire community or
28 neighborhood, or any considerable number of persons, although
29 the extent of the annoyance or damage inflicted upon individuals
30 may be unequal.

31 (3) Occurs during, or as a result of, the treatment or disposal of
32 wastes.

33 (n) “Recycled water” means water ~~which~~, *that*, as a result of
34 treatment of waste, is suitable for a direct beneficial use or a
35 controlled use that would not otherwise occur and is ~~therefor~~
36 *therefore* considered a valuable resource.

37 (o) “Citizen or domiciliary” of the state includes a foreign
38 corporation having substantial business contacts in the state or
39 ~~which~~ *that* is subject to service of process in this state.

40 (p) (1) “Hazardous substance” means either of the following:

1 (A) For discharge to surface waters, any substance determined
2 to be a hazardous substance pursuant to Section 311(b)(2) of the
3 Federal Water Pollution Control Act (33 U.S.C. Sec. 1251 et seq.).

4 (B) For discharge to groundwater, any substance listed as a
5 hazardous waste or hazardous material pursuant to Section 25140
6 of the Health and Safety Code, without regard to whether the
7 substance is intended to be used, reused, or discarded, except that
8 “hazardous substance” does not include any substance excluded
9 from Section 311(b)(2) of the Federal Water Pollution Control Act
10 because it is within the scope of Section 311(a)(1) of that act.

11 (2) “Hazardous substance” does not include any of the
12 following:

13 (A) Nontoxic, nonflammable, and noncorrosive stormwater
14 runoff drained from underground vaults, chambers, or manholes
15 into gutters or storm sewers.

16 (B) Any pesticide ~~which~~ *that* is applied for agricultural purposes
17 or is applied in accordance with a cooperative agreement authorized
18 by Section 116180 of the Health and Safety Code, and is not
19 discharged accidentally or for purposes of disposal, the application
20 of which is in compliance with all applicable state and federal laws
21 and regulations.

22 (C) Any discharge to surface water of a quantity less than a
23 reportable quantity as determined by regulations issued pursuant
24 to Section 311(b)(4) of the Federal Water Pollution Control Act.

25 (D) Any discharge to land ~~which~~ *that* results, or probably will
26 result, in a discharge to groundwater if the amount of the discharge
27 to land is less than a reportable quantity, as determined by
28 regulations adopted pursuant to Section 13271, for substances
29 listed as hazardous pursuant to Section 25140 of the Health and
30 Safety Code. No discharge shall be deemed a discharge of a
31 reportable quantity until regulations set a reportable quantity for
32 the substance discharged.

33 (q) (1) “Mining waste” means all solid, semisolid, and liquid
34 waste materials from the extraction, beneficiation, and processing
35 of ores and minerals. Mining waste includes, but is not limited to,
36 soil, waste rock, and overburden, as defined in Section 2732 of
37 the Public Resources Code, and tailings, slag, and other processed
38 waste materials, including cementitious materials that are managed
39 at the cement manufacturing facility where the materials were
40 generated.

(2) For the purposes of this subdivision, “cementitious material” means cement, cement kiln dust, clinker, and clinker dust.

(r) “Master recycling permit” means a permit issued to a supplier or a distributor, or both, of recycled water, that includes waste discharge requirements prescribed pursuant to Section 13263 and water recycling requirements prescribed pursuant to Section 13523.1.

SEC. 7. Section 13250 is added to the Water Code, to read:

13250. (a) Except as provided in subdivision (b), regulations adopted by the United States Environmental Protection Agency setting water quality standards or policies for implementation of those standards for waters within the external boundaries of the state and in effect on January 19, 2017, shall have the same effect as provisions of water quality control plans under this division.

(b) This section does not apply if either of the following situations occur:

(1) A regulation adopted by the United States Environmental Protection Agency after January 19, 2017, sets a more stringent standard or requirement.

(2) A water quality control plan, state policy for water quality control, or plan or plan amendment, adopted or approved after the federal regulation, sets a beneficial use, water quality objective, or implementation policy to replace the federal regulation.

(c) This section shall become inoperative on January 20, 2025, and, as of January 1, 2026, is repealed.

SEC. 8. Section 13265 of the Water Code is amended to read:

13265. (a) (1) Any person discharging waste in violation of Section 13264, after such violation has been called to his the person’s attention in writing by the regional board, is guilty of a misdemeanor and may be liable civilly in accordance with subdivision (b): misdemeanor. Each day of such discharge shall constitute a separate offense.

(b) (1) Any person discharging waste in violation of Section 13264 may be civilly liable in accordance with this subdivision.

~~(b) (1)~~

(2) Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5 for a violation of subdivision (a) in an amount which that shall not exceed one thousand dollars (\$1,000) for each day in which the violation occurs.

(2)

(3) Civil liability may be imposed by the superior court in accordance with Articles 5 (commencing with Section 13350) and 6 (commencing with Section 13360) of Chapter 5 for a violation of subdivision (a) in an amount ~~which~~ *that* shall not exceed five thousand dollars (\$5,000) for each day in which the violation occurs.

(c) (1) Any person discharging hazardous waste, as defined in Section 25117 of the Health and Safety Code, in violation of Section 13264 is guilty of a misdemeanor and may be liable civilly in accordance with subdivision (d). That liability shall not be imposed if the discharger is not negligent and immediately files a report of the discharge with the board, or if the regional board determines that the violation of Section 13264 was insubstantial.

~~This~~

(2) ~~This~~ subdivision shall not be applicable to any waste discharge ~~which~~ *that* is subject to Chapter 5.5 (commencing with Section 13370).

(d) (1) Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5 for a violation of subdivision (c) in an amount ~~which~~ *that* shall not exceed five thousand dollars (\$5,000) for each day in which the violation occurs.

(2) Civil liability may be imposed by the superior court in accordance with ~~Articles~~ *Article* 5 (commencing with Section 13350) and *Article* 6 (commencing with Section 13360) of Chapter 5 for a violation of subdivision (c) in an amount ~~which~~ *that* shall not exceed twenty-five thousand dollars (\$25,000) for each day in which the violation occurs.

SEC. 9. Section 13350 of the Water Code is amended to read:

13350. (a) A person who (1) violates a cease and desist ~~order or order~~, cleanup and abatement ~~order hereafter issued, reissued, or amended by a regional board or the state board~~, or (2) ~~in violation of a order~~, waste discharge requirement, waiver condition, certification, or other order or prohibition issued, reissued, or amended by a regional board or the state board, ~~discharges waste, or causes or permits waste to be deposited where it is discharged, into the waters of the state~~, or (3) (2) causes or permits any oil or any residuary product of petroleum to be deposited in or on any of the waters of the state, except in accordance with waste

1 discharge requirements or other actions or provisions of this
2 division, shall be liable civilly, and remedies may be proposed, in
3 accordance with subdivision (d) or (e).

4 (b) (1) A person who, without regard to intent or negligence,
5 causes or permits a hazardous substance to be discharged in or on
6 any of the waters of the state, except in accordance with waste
7 discharge requirements or other provisions of this division, shall
8 be strictly liable civilly in accordance with subdivision (d) or (e).

9 (2) For purposes of this subdivision, the term “discharge”
10 includes only those discharges for which Section 13260 directs
11 that a report of waste discharge shall be filed with the regional
12 board.

13 (3) For purposes of this subdivision, the term “discharge” does
14 not include an emission excluded from the applicability of Section
15 311 of the *federal* Clean Water Act (33 U.S.C. Sec. 1321) pursuant
16 to *United States* Environmental Protection Agency regulations
17 interpreting Section 311(a)(2) of the *federal* Clean Water Act (33
18 U.S.C. Sec. 1321(a)(2)).

19 (c) A person shall not be liable under subdivision (b) if the
20 discharge is caused solely by any one or combination of the
21 following:

22 (1) An act of war.

23 (2) An unanticipated grave natural disaster or other natural
24 phenomenon of an exceptional, inevitable, and irresistible
25 character, the effects of which could not have been prevented or
26 avoided by the exercise of due care or foresight.

27 (3) Negligence on the part of the state, the United States, or any
28 department or agency thereof. However, this paragraph shall not
29 be interpreted to provide the state, the United States, or any
30 department or agency thereof a defense to liability for any
31 discharge caused by its own negligence.

32 (4) An intentional act of a third party, the effects of which could
33 not have been prevented or avoided by the exercise of due care or
34 foresight.

35 (5) Any other circumstance or event that causes the discharge
36 despite the exercise of every reasonable precaution to prevent or
37 mitigate the discharge.

38 (d) The court may impose civil liability either on a daily basis
39 or on a per gallon basis, but not on both.

1 (1) The civil liability on a daily basis shall not exceed fifteen
2 thousand dollars (\$15,000) for each day the violation occurs.

3 (2) The civil liability on a per gallon basis shall not exceed
4 twenty dollars (\$20) for each gallon of waste discharged.

5 (e) The state board or a regional board may impose civil liability
6 administratively pursuant to Article 2.5 (commencing with Section
7 13323) of Chapter 5 either on a daily basis or on a per gallon basis,
8 but not on both.

9 (1) The civil liability on a daily basis shall not exceed five
10 thousand dollars (\$5,000) for each day the violation occurs.

11 (A) When there is a discharge, and a cleanup and abatement
12 order is issued, except as provided in subdivision (f), the civil
13 liability shall not be less than five hundred dollars (\$500) for each
14 day in which the discharge occurs and for each day the cleanup
15 and abatement order is violated.

16 (B) When there is no discharge, but ~~an~~ *a cease and desist order*
17 *or cleanup and abatement* order issued by the regional board is
18 violated, except as provided in subdivision (f), the civil liability
19 shall not be less than one hundred dollars (\$100) for each day in
20 which the violation occurs.

21 (2) The civil liability on a per gallon basis shall not exceed ten
22 dollars (\$10) for each gallon of waste discharged.

23 (f) A regional board shall not administratively impose civil
24 liability in accordance with paragraph (1) of subdivision (e) in an
25 amount less than the minimum amount specified, unless the
26 regional board makes express findings setting forth the reasons
27 for its action based upon the specific factors required to be
28 considered pursuant to Section 13327.

29 (g) The Attorney General, upon request of a regional board or
30 the state board, shall petition the superior court to impose, assess,
31 and recover the sums. Except in the case of a violation of a cease
32 and desist order, a regional board or the state board shall make the
33 request only after a hearing, with due notice of the hearing given
34 to all affected persons. In determining the amount to be imposed,
35 assessed, or recovered, the court shall be subject to Section 13351.

36 (h) Article 3 (commencing with Section 13330) and Article 6
37 (commencing with Section 13360) apply to proceedings to impose,
38 assess, and recover an amount pursuant to this article.

39 (i) A person who incurs any liability established under this
40 section shall be entitled to contribution for that liability from a

1 third party, in an action in the superior court and upon proof that
2 the discharge was caused in whole or in part by an act or omission
3 of the third party, to the extent that the discharge is caused by the
4 act or omission of the third party, in accordance with the principles
5 of comparative fault.

6 (j) Remedies under this section are in addition to, and do not
7 supersede or limit, any and all other remedies, civil or criminal,
8 except that no liability shall be recoverable under subdivision (a)
9 *for a violation for which liability is recovered under Section 13268*
10 *or under subdivision (b) for any discharge for which liability is*
11 *recovered under Section 13385.*

12 (k) Notwithstanding any other law, all funds generated by the
13 imposition of liabilities pursuant to this section shall be deposited
14 into the Waste Discharge Permit Fund. These moneys shall be
15 separately accounted for, and shall be expended by the state board,
16 upon appropriation by the Legislature, to assist regional boards,
17 and other public agencies with authority to clean up waste or abate
18 the effects of the waste, in cleaning up or abating the effects of the
19 waste on waters of the state, or for the purposes authorized in
20 Section 13443, or to assist in implementing Chapter 7.3
21 (commencing with Section 13560).

22 ~~(l) This section shall become operative on July 1, 2017.~~

23 *SEC. 10. Section 13377.1 is added to the Water Code, to read:*

24 *13377.1. (a) (1) Except as provided in paragraph (2) or (3),*
25 *if a requirement of Section 1312, 1316, 1317, 1343, or 1344 of*
26 *Title 33 of the United States Code, as amended, or federal*
27 *regulations implementing those sections, in effect on January 19,*
28 *2017, but no longer in effect, sets a more stringent requirement*
29 *than is required under Section 13377, waste discharge*
30 *requirements or dredged or fill material permits under this chapter*
31 *shall apply and ensure compliance with that more stringent*
32 *requirement.*

33 *(2) Paragraph (1) does not apply where the state board or a*
34 *regional board determines that the more stringent requirement*
35 *has been replaced by other state or federal requirements that*
36 *provide comparable or greater protection of water quality.*

37 *(3) Paragraph (1) does not apply if the state board or a regional*
38 *board determines both of the following:*

39 *(A) Requiring compliance with the more stringent requirement*
40 *is not required under the antibacksliding requirements of Section*

1 1342(o) of Title 33 of the United States Code, as amended, and
2 Section 122.44(l) of Title 40 of the Code of Federal Regulations
3 as those provisions were in effect on January 17, 2017, or the
4 antidegradation provisions of Section 131.12 of Title 40 of the
5 Code of Federal Regulations as that section was in effect on
6 January 17, 2017.

7 (B) Requiring compliance with the more stringent requirement
8 would have unreasonable adverse environmental impacts or, for
9 a requirement other than for a toxic pollutant under Section 1312,
10 1317(a), or 1317(b)(1) of Title 33 of the United States Code, as
11 amended, requiring compliance would impose costs that are wholly
12 disproportionate with the benefits to water quality.

13 (b) This section shall become inoperative on January 20, 2025,
14 and, as of January 1, 2026, is repealed.

15 SEC. 11. The provisions of this measure are severable. If any
16 provision of this measure or its application is held invalid, that
17 invalidity shall not affect other provisions or applications that can
18 be given effect without the invalid provision or application.

19 ~~SEC. 3.~~

20 SEC. 12. No reimbursement is required by this act pursuant to
21 Section 6 of Article XIII B of the California Constitution because
22 a local agency or school district has the authority to levy service
23 charges, fees, or assessments sufficient to pay for the program or
24 level of service mandated by certain mandates in this act or because
25 costs that may be incurred by a local agency or school district will
26 be incurred because this act creates a new crime or infraction,
27 eliminates a crime or infraction, or changes the penalty for a crime
28 or infraction, within the meaning of Section 17556 of the
29 Government Code.

30 However, if the Commission on State Mandates determines that
31 this act contains other costs mandated by the state, reimbursement
32 to local agencies and school districts for those costs shall be made
33 pursuant to Part 7 (commencing with Section 17500) of Division
34 4 of Title 2 of the Government Code.

O

STATE CAPITOL
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STANDING COMMITTEE
SENATE RULES
CHAIR

SENATOR TONI G. ATKINS
PRESIDENT PRO TEMPORE

September 9, 2019

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

RE: Request for Waiver of Joint Rule 61(a) for SB 100 (Atkins et al)

Dear Mr. Chair:

I am writing to respectfully request that the Assembly Rules Committee grant a Joint Rule 61(a) waiver for my SB 1 so that the bill may amended after the floor amendment deadline.

This request is necessitated due to last minute discussions between the two houses and the Governor over possible amendments to the measure.

Thank you in advance for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Toni G. Atkins".

TONI G. ATKINS
Senate President pro Tempore
39th Senate District

TGA:kr

AMENDED IN ASSEMBLY JUNE 27, 2019

SENATE BILL

No. 222

**Introduced by Senator Hill
(Coauthor: Senator Nielsen)**

February 7, 2019

An act to amend Sections 12920, 12921, 12927, 12930, 12931, 12955, 12955.8, 12956.1, and 12956.2 of the Government Code, relating to discrimination.

LEGISLATIVE COUNSEL'S DIGEST

SB 222, as amended, Hill. Discrimination: veteran or military status.

Existing law declares that housing discrimination on the basis of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, or genetic information is against public policy.

This bill would state findings and declarations of the Legislature regarding the importance of housing for veterans and its priority, and declare that housing discrimination on the basis of veteran or military status is against public policy.

Existing law provides that the opportunity to seek, obtain, and hold housing without discrimination because of specified characteristics is a civil right.

This bill would provide that the opportunity to seek, obtain, and hold housing without discrimination because of veteran or military status is a civil right.

Existing law defines specified terms, including the term "source of income," in connection with provisions that prohibit discrimination in housing accommodations.

This bill would specify that a federal Department of Housing and Urban Development Veterans Affairs Supportive Housing voucher is a source of income.

Existing law authorizes the Department of Fair Employment and Housing to issue publications and results of investigations and research that, in its judgment, promote goodwill and minimize or eliminate discrimination in employment and discrimination in housing because of specified characteristics.

This bill would include veteran or military status among the characteristics that apply to the authorization described above.

Existing law authorizes the Department of Fair Employment and Housing, upon the request of certain parties, to provide assistance to communities and persons in resolving disputes, disagreements, or difficulties relating to discriminatory practices based upon specified characteristics.

This bill would authorize the department also to provide this assistance if the dispute, disagreement, or difficulty relates to discriminatory practices based upon veteran or military status.

Existing law prohibits the owner of any housing accommodation, or any person, bank, mortgage company, or other financial institution that provides financial assistance for the purchase, organization, or construction of any housing accommodation, among other persons and entities from, among other things, discriminating against any person because of particular characteristics of that person, including race and gender, as specified.

This bill would prohibit the persons and entities described above from discriminating against any person because of the veteran or military status of that person. The bill would also make other conforming changes.

Existing law requires a county recorder who provides a copy of a declaration, governing document, or deed to any person to place a cover page or stamp on the first page of the previously recorded document stating that if the document contains any restriction based on certain characteristics, that the restriction violates state and federal fair housing laws and is void, and may be removed.

This bill would require the specified language in the cover page or stamp to include the characteristic of veteran or military status. By requiring the county recorder to change the cover page or stamp, 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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

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

1 SECTION 1. The Legislature finds and declares that housing
2 for veterans is of critical importance and that California must make
3 it a priority to ensure that there is an adequate supply of housing
4 for veterans.

5 The Legislature further declares that veterans are a priority and
6 that we must ensure that they have all housing options available,
7 which merits amendment to California law relating to source of
8 income and federal Department of Housing and Urban
9 Development Veterans Affairs Supportive Housing vouchers.

10 SEC. 2. Section 12920 of the Government Code is amended
11 to read:

12 12920. It is hereby declared as the public policy of this state
13 that it is necessary to protect and safeguard the right and
14 opportunity of all persons to seek, obtain, and hold employment
15 without discrimination or abridgment on account of race, religious
16 creed, 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.

20 It is recognized that the practice of denying employment
21 opportunity and discriminating in the terms of employment for
22 these reasons foments domestic strife and unrest, deprives the state
23 of the fullest utilization of its capacities for development and
24 advancement, and substantially and adversely affects the interests
25 of employees, employers, and the public in general.

26 Further, the practice of discrimination because of race, color,
27 religion, sex, gender, gender identity, gender expression, sexual
28 orientation, marital status, national origin, ancestry, familial status,

1 source of income, disability, veteran or military status, or genetic
2 information in housing accommodations is declared to be against
3 public policy.

4 It is the purpose of this part to provide effective remedies that
5 will eliminate these discriminatory practices.

6 This part shall be deemed an exercise of the police power of the
7 state for the protection of the welfare, health, and peace of the
8 people of this state.

9 SEC. 3. Section 12921 of the Government Code is amended
10 to read:

11 12921. (a) The opportunity to seek, obtain, and hold
12 employment without discrimination because of race, religious
13 creed, color, national origin, ancestry, physical disability, mental
14 disability, medical condition, genetic information, marital status,
15 sex, gender, gender identity, gender expression, age, sexual
16 orientation, or military and veteran status is hereby recognized as
17 and declared to be a civil right.

18 (b) The opportunity to seek, obtain, and hold housing without
19 discrimination because of race, color, religion, sex, gender, gender
20 identity, gender expression, sexual orientation, marital status,
21 national origin, ancestry, familial status, source of income,
22 disability, veteran or military status, genetic information, or any
23 other basis prohibited by Section 51 of the Civil Code is hereby
24 recognized as and declared to be a civil right.

25 SEC. 4. Section 12927 of the Government Code is amended
26 to read:

27 12927. As used in this part in connection with housing
28 accommodations, unless a different meaning clearly appears from
29 the context:

30 (a) “Affirmative actions” means any activity for the purpose of
31 eliminating discrimination in housing accommodations because
32 of race, color, religion, sex, marital status, national origin, ancestry,
33 familial status, or disability.

34 (b) “Conciliation council” means a nonprofit organization, or
35 a city or county human relations commission, which provides
36 education, factfinding, and mediation or conciliation services in
37 resolution of complaints of housing discrimination.

38 (c) (1) “Discrimination” includes refusal to sell, rent, or lease
39 housing accommodations; includes refusal to negotiate for the
40 sale, rental, or lease of housing accommodations; includes

1 representation that a housing accommodation is not available for
2 inspection, sale, or rental when that housing accommodation is in
3 fact so available; includes any other denial or withholding of
4 housing accommodations; includes provision of inferior terms,
5 conditions, privileges, facilities, or services in connection with
6 those housing accommodations; includes harassment in connection
7 with those housing accommodations; includes the cancellation or
8 termination of a sale or rental agreement; includes the provision
9 of segregated or separated housing accommodations; includes the
10 refusal to permit, at the expense of the disabled person, reasonable
11 modifications of existing premises occupied or to be occupied by
12 the disabled person, if the modifications may be necessary to afford
13 the disabled person full enjoyment of the premises, except that, in
14 the case of a rental, the landlord may, where it is reasonable to do
15 so condition permission for a modification on the renter's agreeing
16 to restore the interior of the premises to the condition that existed
17 before the modification (other than for reasonable wear and tear),
18 and includes refusal to make reasonable accommodations in rules,
19 policies, practices, or services when these accommodations may
20 be necessary to afford a disabled person equal opportunity to use
21 and enjoy a dwelling.

22 (2) "Discrimination" does not include either of the following:

23 (A) Refusal to rent or lease a portion of an owner-occupied
24 single-family house to a person as a roomer or boarder living within
25 the household, provided that no more than one roomer or boarder
26 is to live within the household, and the owner complies with
27 subdivision (c) of Section 12955, which prohibits discriminatory
28 notices, statements, and advertisements.

29 (B) Where the sharing of living areas in a single dwelling unit
30 is involved, the use of words stating or tending to imply that the
31 housing being advertised is available only to persons of one sex.

32 (d) "Housing accommodation" means any building, structure,
33 or portion thereof that is occupied as, or intended for occupancy
34 as, a residence by one or more families and any vacant land that
35 is offered for sale or lease for the construction thereon of any
36 building, structure, or portion thereof intended to be so occupied.

37 (e) "Owner" includes the lessee, sublessee, assignee, managing
38 agent, real estate broker or salesperson, or any person having any
39 legal or equitable right of ownership or possession or the right to

1 rent or lease housing accommodations, and includes the state and
2 any of its political subdivisions and any agency thereof.

3 (f) “Person” includes all individuals and entities that are
4 described in Section 3602(d) of Title 42 of the United States Code,
5 and in the definition of “owner” in subdivision (e) of this section,
6 and all institutional third parties, including the Federal Home Loan
7 Mortgage Corporation.

8 (g) “Aggrieved person” includes any person who claims to have
9 been injured by a discriminatory housing practice or believes that
10 the person will be injured by a discriminatory housing practice
11 that is about to occur.

12 (h) “Real estate-related transactions” include any of the
13 following:

14 (1) The making or purchasing of loans or providing other
15 financial assistance that is for the purpose of purchasing,
16 constructing, improving, repairing, or maintaining a dwelling, or
17 that is secured by residential real estate.

18 (2) The selling, brokering, or appraising of residential real
19 property.

20 (3) The use of territorial underwriting requirements, for the
21 purpose of requiring a borrower in a specific geographic area to
22 obtain earthquake insurance, required by an institutional third party
23 on a loan secured by residential real property.

24 (i) “Source of income” means lawful, verifiable income paid
25 directly to a tenant or paid to a representative of a tenant. “Source
26 of income” includes a federal Department of Housing and Urban
27 Development Veterans Affairs Supportive Housing voucher. For
28 the purposes of this definition, a landlord is not considered a
29 representative of a ~~tenant~~. *tenant unless the source of income is a*
30 *federal Department of Housing and Urban Development Veterans*
31 *Affairs Supportive Housing voucher.*

32 SEC. 5. Section 12930 of the Government Code, as amended
33 by Section 2 of Chapter 951 of the Statutes of 2018, is amended
34 to read:

35 12930. The department shall have the following functions,
36 powers, and duties:

37 (a) To establish and maintain a principal office and any other
38 offices within the state as are necessary to carry out the purposes
39 of this part.

40 (b) To meet and function at any place within the state.

1 (c) To appoint attorneys, investigators, conciliators, mediators,
2 and other employees as it may deem necessary, fix their
3 compensation within the limitations provided by law, and prescribe
4 their duties.

5 (d) To obtain upon request and utilize the services of all
6 governmental departments and agencies and, in addition, with
7 respect to housing discrimination, of conciliation councils.

8 (e) To adopt, promulgate, amend, and rescind suitable procedural
9 rules and regulations to carry out the investigation, prosecution,
10 and dispute resolution functions and duties of the department
11 pursuant to this part.

12 (f) (1) To receive, investigate, conciliate, mediate, and prosecute
13 complaints alleging practices made unlawful pursuant to Chapter
14 6 (commencing with Section 12940).

15 (2) To receive, investigate, conciliate, mediate, and prosecute
16 complaints alleging a violation of Section 51, 51.5, 51.7, 51.9, 54,
17 54.1, or 54.2 of the Civil Code. The remedies and procedures of
18 this part shall be independent of any other remedy or procedure
19 that might apply.

20 (3) To receive, investigate, conciliate, mediate, and prosecute
21 complaints alleging, and to bring civil actions pursuant to Section
22 52.5 of the Civil Code for, a violation of Section 236.1 of the Penal
23 Code. Damages awarded in any action brought by the department
24 pursuant to Section 52.5 of the Civil Code shall be awarded to the
25 person harmed by the violation of Section 236.1 of the Penal Code.
26 Costs and attorney's fees awarded in any action brought by the
27 department pursuant to Section 52.5 of the Civil Code shall be
28 awarded to the department. The remedies and procedures of this
29 part shall be independent of any other remedy or procedure that
30 might apply.

31 (4) To receive, investigate, conciliate, mediate, and prosecute
32 complaints alleging practices made unlawful pursuant to Article
33 9.5 (commencing with Section 11135) of Chapter 1 of Part 1,
34 except for complaints relating to educational equity brought under
35 Chapter 2 (commencing with Section 200) of Part 1 of Division 1
36 of Title 1 of the Education Code and investigated pursuant to the
37 procedures set forth in Subchapter 5.1 of Title 5 of the California
38 Code of Regulations, and not otherwise within the jurisdiction of
39 the department.

1 (A) Nothing in this part prevents the director or the director's
2 authorized representative, in that person's discretion, from making,
3 signing, and filing a complaint pursuant to Section 12960 or 12961
4 alleging practices made unlawful under Section 11135.

5 (B) Remedies available to the department in conciliating,
6 mediating, and prosecuting complaints alleging these practices are
7 the same as those available to the department in conciliating,
8 mediating, and prosecuting complaints alleging violations of Article
9 1 (commencing with Section 12940) of Chapter 6.

10 (g) In connection with any matter under investigation or in
11 question before the department pursuant to a complaint filed under
12 Section 12960, 12961, or 12980:

13 (1) To issue subpoenas to require the attendance and testimony
14 of witnesses and the production of books, records, documents, and
15 physical materials.

16 (2) To administer oaths, examine witnesses under oath and take
17 evidence, and take depositions and affidavits.

18 (3) To issue written interrogatories.

19 (4) To request the production for inspection and copying of
20 books, records, documents, and physical materials.

21 (5) To petition the superior courts to compel the appearance
22 and testimony of witnesses, the production of books, records,
23 documents, and physical materials, and the answering of
24 interrogatories.

25 (h) To bring civil actions pursuant to Section 12965 or 12981
26 and to prosecute those civil actions before state and federal trial
27 courts.

28 (i) To issue those publications and those results of investigations
29 and research as in its judgment will tend to promote goodwill and
30 minimize or eliminate discrimination in employment on the bases
31 enumerated in this part and discrimination in housing because of
32 race, religious creed, color, sex, gender, gender identity, gender
33 expression, marital status, national origin, ancestry, familial status,
34 disability, veteran or military status, genetic information, or sexual
35 orientation.

36 (j) To investigate, approve, certify, decertify, monitor, and
37 enforce nondiscrimination programs proposed by a contractor to
38 be engaged in pursuant to Section 12990.

39 (k) To render annually to the Governor and to the Legislature
40 a written report of its activities and of its recommendations.

1 (l) To conduct mediations at any time after a complaint is filed
2 pursuant to Section 12960, 12961, or 12980. The department may
3 end mediation at any time.

4 (m) The following shall apply with respect to any accusation
5 pending before the former Fair Employment and Housing
6 Commission on or after January 1, 2013:

7 (1) If an accusation issued under former Section 12965 includes
8 a prayer either for damages for emotional injuries as a component
9 of actual damages, or for administrative fines, or both, or if an
10 accusation is amended for the purpose of adding a prayer either
11 for damages for emotional injuries as a component of actual
12 damages, or for administrative fines, or both, with the consent of
13 the party accused of engaging in unlawful practices, the department
14 may withdraw an accusation and bring a civil action in superior
15 court.

16 (2) If an accusation was issued under former Section 12981,
17 with the consent of the aggrieved party filing the ~~complaint~~
18 *complaint*, an aggrieved person on whose behalf a complaint is
19 filed, or the party accused of engaging in unlawful practices, the
20 department may withdraw the accusation and bring a civil action
21 in superior court.

22 (3) Where removal to court is not feasible, the department shall
23 retain the services of the Office of Administrative Hearings to
24 adjudicate the administrative action pursuant to Sections 11370.3
25 and 11502.

26 (n) On any Section 1094.5 Code of Civil Procedure challenge
27 to a decision of the former Fair Employment and Housing
28 Commission pending on or after January 1, 2013, the director or
29 the director's designee shall consult with the Attorney General
30 regarding the defense of that writ petition.

31 SEC. 6. Section 12931 of the Government Code is amended
32 to read:

33 12931. The department may also provide assistance to
34 communities and persons therein in resolving disputes,
35 disagreements, or difficulties relating to discriminatory practices
36 based on race, religious creed, color, national origin, ancestry,
37 physical disability, mental disability, veteran or military status,
38 medical condition, genetic information, marital status, sex, gender,
39 gender identity, gender expression, familial status, age, or sexual
40 orientation that impair the rights of persons in those communities

1 under the Constitution or laws of the United States or of this state.
2 The services of the department may be made available in cases of
3 these disputes, disagreements, or difficulties only when, in its
4 judgment, peaceful relations among the citizens of the community
5 involved are threatened thereby. The department's services are to
6 be made available only upon the request of an appropriate state or
7 local public body, or upon the request of any person directly
8 affected by any such dispute, disagreement, or difficulty.

9 The assistance of the department pursuant to this section shall
10 be limited to endeavors at investigation, conference, conciliation,
11 and persuasion.

12 SEC. 7. Section 12955 of the Government Code is amended
13 to read:

14 12955. It shall be unlawful:

15 (a) For the owner of any housing accommodation to discriminate
16 against or harass any person because of the race, color, religion,
17 sex, gender, gender identity, gender expression, sexual orientation,
18 marital status, national origin, ancestry, familial status, source of
19 income, disability, veteran or military status, or genetic information
20 of that person.

21 (b) For the owner of any housing accommodation to make or
22 to cause to be made any written or oral inquiry concerning the
23 race, color, religion, sex, gender, gender identity, gender
24 expression, sexual orientation, marital status, national origin,
25 ancestry, familial status, disability, veteran or military status, or
26 genetic information of any person seeking to purchase, rent, or
27 lease any housing accommodation.

28 (c) For any person to make, print, or publish, or cause to be
29 made, printed, or published any notice, statement, or advertisement,
30 with respect to the sale or rental of a housing accommodation that
31 indicates any preference, limitation, or discrimination based on
32 race, color, religion, sex, gender, gender identity, gender
33 expression, sexual orientation, marital status, national origin,
34 ancestry, familial status, source of income, disability, veteran or
35 military status, or genetic information or an intention to make that
36 preference, limitation, or discrimination.

37 (d) For any person subject to the provisions of Section 51 of
38 the Civil Code, as that section applies to housing accommodations,
39 to discriminate against any person on the basis of sex, gender,
40 gender identity, gender expression, sexual orientation, color, race,

1 religion, ancestry, national origin, familial status, marital status,
2 disability, genetic information, source of income, veteran or
3 military status, or on any other basis prohibited by that section.
4 Selection preferences based on age, imposed in connection with
5 a federally approved housing program, do not constitute age
6 discrimination in housing.

7 (e) For any person, bank, mortgage ~~company~~ company, or other
8 financial institution that provides financial assistance for the
9 purchase, organization, or construction of any housing
10 accommodation to discriminate against any person or group of
11 persons because of the race, color, religion, sex, gender, gender
12 identity, gender expression, sexual orientation, marital status,
13 national origin, ancestry, familial status, source of income,
14 disability, veteran or military status, or genetic information in the
15 terms, conditions, or privileges relating to the obtaining or use of
16 that financial assistance.

17 (f) For any owner of housing accommodations to harass, evict,
18 or otherwise discriminate against any person in the sale or rental
19 of housing accommodations when the owner's dominant purpose
20 is retaliation against a person who has opposed practices unlawful
21 under this section, informed law enforcement agencies of practices
22 believed unlawful under this section, has testified or assisted in
23 any proceeding under this part, or has aided or encouraged a person
24 to exercise or enjoy the rights secured by this part. Nothing herein
25 is intended to cause or permit the delay of an unlawful detainer
26 action.

27 (g) For any person to aid, abet, incite, compel, or coerce the
28 doing of any of the acts or practices declared unlawful in this
29 section, or to attempt to do so.

30 (h) For any person, for profit, to induce any person to sell or
31 rent any dwelling by representations regarding the entry or
32 prospective entry into the neighborhood of a person or persons of
33 a particular race, color, religion, sex, gender, gender identity,
34 gender expression, sexual orientation, marital status, ancestry,
35 disability, genetic information, source of income, familial status,
36 veteran or military status, or national origin.

37 (i) For any person or other organization or entity whose business
38 involves real estate-related transactions to discriminate against
39 any person in making available a transaction, or in the terms and
40 conditions of a transaction, because of race, color, religion, sex,

1 gender, gender identity, gender expression, sexual orientation,
2 marital status, national origin, ancestry, source of income, familial
3 status, disability, veteran or military status, or genetic information.

4 (j) To deny a person access to, or membership or participation
5 in, a multiple listing service, real estate brokerage organization,
6 or other service because of race, color, religion, sex, gender, gender
7 identity, gender expression, sexual orientation, marital status,
8 ancestry, disability, genetic information, familial status, source of
9 income, veteran or military status, or national origin.

10 (k) To otherwise make unavailable or deny a dwelling based
11 on discrimination because of race, color, religion, sex, gender,
12 gender identity, gender expression, sexual orientation, familial
13 status, source of income, disability, genetic information, veteran
14 or military status, or national origin.

15 (l) To discriminate through public or private land use practices,
16 decisions, and authorizations because of race, color, religion, sex,
17 gender, gender identity, gender expression, sexual orientation,
18 familial status, marital status, disability, genetic information,
19 national origin, source of income, veteran or military status, or
20 ancestry. Discrimination includes, but is not limited to, restrictive
21 covenants, zoning laws, denials of use permits, and other actions
22 authorized under the Planning and Zoning Law (Title 7
23 (commencing with Section 65000)), that make housing
24 opportunities unavailable.

25 Discrimination under this subdivision also includes the existence
26 of a restrictive covenant, regardless of whether accompanied by a
27 statement that the restrictive covenant is repealed or void.

28 (m) As used in this section, “race, color, religion, sex, gender,
29 gender identity, gender expression, sexual orientation, marital
30 status, national origin, ancestry, familial status, source of income,
31 disability, veteran or military status, or genetic information,”
32 includes a perception that the person has any of those
33 characteristics or that the person is associated with a person who
34 has, or is perceived to have, any of those characteristics.

35 (n) To use a financial or income standard in the rental of housing
36 that fails to account for the aggregate income of persons residing
37 together or proposing to reside together on the same basis as the
38 aggregate income of married persons residing together or proposing
39 to reside together.

1 (o) In instances where there is a government rent subsidy, to
2 use a financial or income standard in assessing eligibility for the
3 rental of housing that is not based on the portion of the rent to be
4 paid by the tenant.

5 (p) (1) For the purposes of this section, “source of income”
6 means lawful, verifiable income paid directly to a tenant or paid
7 to a representative of a tenant. “Source of income” includes a
8 federal Department of Housing and Urban Development Veterans
9 Affairs Supportive Housing voucher. For the purposes of this
10 section, a landlord is not considered a representative of a ~~tenant~~.
11 *tenant unless the source of income is a federal Department of*
12 *Housing and Urban Development Veterans Affairs Supportive*
13 *Housing voucher.*

14 (2) For the purposes of this section, it shall not constitute
15 discrimination based on source of income to make a written or
16 oral inquiry concerning the level or source of income.

17 SEC. 8. Section 12955.8 of the Government Code is amended
18 to read:

19 12955.8. For purposes of this article, in connection with
20 unlawful practices:

21 (a) Proof of an intentional violation of this article includes, but
22 is not limited to, an act or failure to act that is otherwise covered
23 by this part, that demonstrates an intent to discriminate in any
24 manner in violation of this part. A person intends to discriminate
25 if race, color, religion, sex, gender, gender identity, gender
26 expression, sexual orientation, marital status, national origin,
27 ancestry, familial status, source of income, disability, veteran or
28 military status, or genetic information is a motivating factor in
29 committing a discriminatory housing practice even though other
30 factors may have also motivated the practice. An intent to
31 discriminate may be established by direct or circumstantial
32 evidence.

33 (b) Proof of a violation causing a discriminatory effect is shown
34 if an act or failure to act that is otherwise covered by this part, and
35 that has the effect, regardless of intent, of unlawfully discriminating
36 on the basis of race, color, religion, sex, gender, gender identity,
37 gender expression, sexual orientation, marital status, national
38 origin, ancestry, familial status, source of income, disability,
39 veteran or military status, or genetic information. A business
40 establishment whose action or inaction has an unintended

1 discriminatory effect shall not be considered to have committed
2 an unlawful housing practice in violation of this part if the business
3 establishment can establish that the action or inaction is necessary
4 to the operation of the business and effectively carries out the
5 significant business need it is alleged to serve. In cases that do not
6 involve a business establishment, the person whose action or
7 inaction has an unintended discriminatory effect shall not be
8 considered to have committed an unlawful housing practice in
9 violation of this part if the person can establish that the action or
10 inaction is necessary to achieve an important purpose sufficiently
11 compelling to override the discriminatory effect and effectively
12 carries out the purpose it is alleged to serve.

13 (1) Any determination of a violation pursuant to this subdivision
14 shall consider whether or not there are feasible alternatives that
15 would equally well or better accomplish the purpose advanced
16 with a less discriminatory effect.

17 (2) For purposes of this subdivision, the term “business
18 establishment” shall have the same meaning as in Section 51 of
19 the Civil Code.

20 SEC. 9. Section 12956.1 of the Government Code is amended
21 to read:

22 12956.1. (a) As used in this section, “association,” “governing
23 documents,” and “declaration” have the same meanings as set forth
24 in Sections 4080, 4135, and 4150 or Sections 6528, 6546, and
25 6552 of the Civil Code.

26 (b) (1) A county recorder, title insurance company, escrow
27 company, real estate broker, real estate agent, or association that
28 provides a copy of a declaration, governing document, or deed to
29 any person shall place a cover page or stamp on the first page of
30 the previously recorded document or documents stating, in at least
31 14-point boldface type, the following:

32
33 “If this document contains any restriction based on race, color,
34 religion, sex, gender, gender identity, gender expression, sexual
35 orientation, familial status, marital status, disability, veteran or
36 military status, genetic information, national origin, source of
37 income as defined in subdivision (p) of Section 12955, or ancestry,
38 that restriction violates state and federal fair housing laws and is
39 void, and may be removed pursuant to Section 12956.2 of the
40 Government Code. Lawful restrictions under state and federal law

1 on the age of occupants in senior housing or housing for older
2 persons shall not be construed as restrictions based on familial
3 status.”

4
5 (2) The requirements of paragraph (1) shall not apply to
6 documents being submitted for recordation to a county recorder.

7 (c) Any person who records a document for the express purpose
8 of adding a racially restrictive covenant is guilty of a misdemeanor.
9 The county recorder shall not incur any liability for recording the
10 document. Notwithstanding any other provision of law, a
11 prosecution for a violation of this subdivision shall commence
12 within three years after the discovery of the recording of the
13 document.

14 SEC. 10. Section 12956.2 of the Government Code is amended
15 to read:

16 12956.2. (a) A person who holds an ownership interest of
17 record in property that the person believes is the subject of an
18 unlawfully restrictive covenant in violation of subdivision (l) of
19 Section 12955 may record a document titled Restrictive Covenant
20 Modification. The county recorder may choose to waive the fee
21 prescribed for recording and indexing instruments pursuant to
22 Section 27361 in the case of the modification document provided
23 for in this section. The modification document shall include a
24 complete copy of the original document containing the unlawfully
25 restrictive language with the unlawfully restrictive language
26 stricken.

27 (b) Before recording the modification document, the county
28 recorder shall submit the modification document and the original
29 document to the county counsel who shall determine whether the
30 original document contains an unlawful restriction based on race,
31 color, religion, sex, gender, gender identity, gender expression,
32 sexual orientation, familial status, marital status, disability, veteran
33 or military status, national origin, source of income as defined in
34 subdivision (p) of Section 12955, or ancestry. The county counsel
35 shall return the documents and inform the county recorder of its
36 determination. The county recorder shall refuse to record the
37 modification document if the county counsel finds that the original
38 document does not contain an unlawful restriction as specified in
39 this paragraph.

1 (c) The modification document shall be indexed in the same
2 manner as the original document being modified. It shall contain
3 a recording reference to the original document in the form of a
4 book and page or instrument number, and date of the recording.

5 (d) Subject to covenants, conditions, and restrictions that were
6 recorded after the recording of the original document that contains
7 the unlawfully restrictive language and subject to covenants,
8 conditions, and restrictions that will be recorded after the
9 Restrictive Covenant Modification, the restrictions in the
10 Restrictive Covenant Modification, once recorded, are the only
11 restrictions having effect on the property. The effective date of the
12 terms and conditions of the modification document shall be the
13 same as the effective date of the original document.

14 (e) The county recorder shall make available to the public
15 Restrictive Covenant Modification forms.

16 (f) If the holder of an ownership interest of record in property
17 causes to be recorded a modified document pursuant to this section
18 that contains modifications not authorized by this section, the
19 county recorder shall not incur liability for recording the document.
20 The liability that may result from the unauthorized recordation is
21 the sole responsibility of the holder of the ownership interest of
22 record who caused the modified recordation.

23 (g) This section does not apply to persons holding an ownership
24 interest in property that is part of a common interest development
25 as defined in Section 4100 or 6534 of the Civil Code if the board
26 of directors of that common interest development is subject to the
27 requirements of subdivision (b) of Section 4225 or of subdivision
28 (b) of Section 6606 of the Civil Code.

29 SEC. 11. If the Commission on State Mandates determines
30 that this act contains costs mandated by the state, reimbursement
31 to local agencies and school districts for those costs shall be made
32 pursuant to Part 7 (commencing with Section 17500) of Division
33 4 of Title 2 of the Government Code.

O

California State Senate

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THIRTEENTH SENATE DISTRICT



COMMITTEES
LABOR, PUBLIC EMPLOYMENT
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APPROPRIATIONS
BUSINESS, PROFESSIONS &
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ENVIRONMENTAL QUALITY
GOVERNMENTAL ORGANIZATION

September 9, 2019

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

Re.: SB 222 (Hill): Discrimination: veteran or military status.

Dear Assemblymember Cooley:

I respectfully request that Joint Rule 61(a) (14) be waived in order to amend SB 222 after the Floor amendment deadline.

Thank you for your consideration of this request.

Sincerely,

A handwritten signature in blue ink that reads "Jerry Hill".

Jerry Hill
Senator, 13th District

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PROPOSED AMENDMENTS TO SENATE BILL NO. 222

AMENDED IN ASSEMBLY JUNE 27, 2019

SENATE BILL

No. 222

Introduced by Senator Hill
(Coauthor: Senator Nielsen)

February 7, 2019



RN1922197

An act to amend Sections 12920, 12921, 12927, 12930, 12931, 12955, 12955.8, 12956.1, and 12956.2 of the Government Code, relating to discrimination.

LEGISLATIVE COUNSEL'S DIGEST

SB 222, as amended, Hill. Discrimination: veteran or military status.

Existing law declares that housing discrimination on the basis of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, or genetic information is against public policy.

This bill would state findings and declarations of the Legislature regarding the importance of housing for veterans and its priority, and declare that housing discrimination on the basis of veteran or military status is against public policy.

Existing law provides that the opportunity to seek, obtain, and hold housing without discrimination because of specified characteristics is a civil right.

This bill would provide that the opportunity to seek, obtain, and hold housing without discrimination because of veteran or military status is a civil right.

Existing law defines specified terms, including the term "source of income," in connection with provisions that prohibit discrimination in

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housing accommodations. *Existing law specifies that for the purposes of this definition, a landlord is not considered a representative of a tenant.*

This bill would specify that a federal Department of Housing and Urban Development Veterans Affairs Supportive Housing voucher is a source of income. *The bill would also specify that for the purposes of this definition, a housing owner is not considered a representative of a tenant.*

Existing law authorizes the Department of Fair Employment and Housing to issue publications and results of investigations and research that, in its judgment, promote goodwill and minimize or eliminate discrimination in employment and discrimination in housing because of specified characteristics.

This bill would include veteran or military status among the characteristics that apply to the authorization described above.

Existing law authorizes the Department of Fair Employment and Housing, upon the request of certain parties, to provide assistance to communities and persons in resolving disputes, disagreements, or difficulties relating to discriminatory practices based upon specified characteristics.

This bill would authorize the department also to provide this assistance if the dispute, disagreement, or difficulty relates to discriminatory practices based upon veteran or military status.

Existing law prohibits the owner of any housing accommodation, or any person, bank, mortgage company, or other financial institution that provides financial assistance for the purchase, organization, or construction of any housing accommodation, among other persons and entities from, among other things, discriminating against any person because of particular characteristics of that person, including race and gender, as specified.

This bill would prohibit the persons and entities described above from discriminating against any person because of the veteran or military status of that person. The bill would also make other conforming changes.

Existing law requires a county recorder who provides a copy of a declaration, governing document, or deed to any person to place a cover page or stamp on the first page of the previously recorded document stating that if the document contains any restriction based on certain characteristics, that the restriction violates state and federal fair housing laws and is void, and may be removed.

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This bill would require the specified language in the cover page or stamp to include the characteristic of veteran or military status. By requiring the county recorder to change the cover page or stamp, 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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

This bill would incorporate additional changes to Section 12927 of the Government Code proposed by AB 1497 and SB 329 to be operative only if either or both of those bills are enacted and this bill is enacted last.

This bill would incorporate additional changes to Section 12930 of the Government Code proposed by AB 1820 to be operative only if this bill and AB 1820 are enacted and this bill is enacted last.

This bill would incorporate additional changes to Section 12955 of the Government Code proposed by SB 329 to be operative only if this bill and SB 329 are enacted and this bill is enacted last.

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

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

Page 3 1 SECTION 1. The Legislature finds and declares that housing
2 for veterans is of critical importance and that California must make
3 it a priority to ensure that there is an adequate supply of housing
4 for veterans.
5 The Legislature further declares that veterans are a priority and
6 that we must ensure that they have all housing options available,
7 which merits amendment to California law relating to source of
8 income and federal Department of Housing and Urban
9 Development Veterans Affairs Supportive Housing vouchers.
10 SEC. 2. Section 12920 of the Government Code is amended
11 to read:
12 12920. It is hereby declared as the public policy of this state
13 that it is necessary to protect and safeguard the right and
14 opportunity of all persons to seek, obtain, and hold employment

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Page 3 15 without discrimination or abridgment on account of race, religious
16 creed, 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.
20 It is recognized that the practice of denying employment
21 opportunity and discriminating in the terms of employment for
22 these reasons foments domestic strife and unrest, deprives the state
23 of the fullest utilization of its capacities for development and
24 advancement, and substantially and adversely affects the interests
25 of employees, employers, and the public in general.
26 Further, the practice of discrimination because of race, color,
27 religion, sex, gender, gender identity, gender expression, sexual
28 orientation, marital status, national origin, ancestry, familial status,
Page 4 1 source of income, disability, veteran or military status, or genetic
2 information in housing accommodations is declared to be against
3 public policy.
4 It is the purpose of this part to provide effective remedies that
5 will eliminate these discriminatory practices.
6 This part shall be deemed an exercise of the police power of the
7 state for the protection of the welfare, health, and peace of the
8 people of this state.
9 SEC. 3. Section 12921 of the Government Code is amended
10 to read:
11 12921. (a) The opportunity to seek, obtain, and hold
12 employment without discrimination because of race, religious
13 creed, color, national origin, ancestry, physical disability, mental
14 disability, medical condition, genetic information, marital status,
15 sex, gender, gender identity, gender expression, age, sexual
16 orientation, or military and veteran status is hereby recognized as
17 and declared to be a civil right.
18 (b) The opportunity to seek, obtain, and hold housing without
19 discrimination because of race, color, religion, sex, gender, gender
20 identity, gender expression, sexual orientation, marital status,
21 national origin, ancestry, familial status, source of income,
22 disability, veteran or military status, genetic information, or any
23 other basis prohibited by Section 51 of the Civil Code is hereby
24 recognized as and declared to be a civil right.
25 SEC. 4. Section 12927 of the Government Code is amended
26 to read:

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Page 4 27 12927. As used in this part in connection with housing
28 accommodations, unless a different meaning clearly appears from
29 the context:
30 (a) “Affirmative actions” means any activity for the purpose of
31 eliminating discrimination in housing accommodations because
32 of race, color, religion, sex, marital status, national origin, ancestry,
33 familial status, or disability.
34 (b) “Conciliation council” means a nonprofit organization, or
35 a city or county human relations commission, which provides
36 education, factfinding, and mediation or conciliation services in
37 resolution of complaints of housing discrimination.
38 (c) (1) “Discrimination” includes refusal to sell, rent, or lease
39 housing accommodations; includes refusal to negotiate for the
40 sale, rental, or lease of housing accommodations; includes
Page 5 1 representation that a housing accommodation is not available for
2 inspection, sale, or rental when that housing accommodation is in
3 fact so available; includes any other denial or withholding of
4 housing accommodations; includes provision of inferior terms,
5 conditions, privileges, facilities, or services in connection with
6 those housing accommodations; includes harassment in connection
7 with those housing accommodations; includes the cancellation or
8 termination of a sale or rental agreement; includes the provision
9 of segregated or separated housing accommodations; includes the
10 refusal to permit, at the expense of the disabled person, reasonable
11 modifications of existing premises occupied or to be occupied by
12 the disabled person, if the modifications may be necessary to afford
13 the disabled person full enjoyment of the premises, except that, in
14 the case of a rental, the landlord may, where it is reasonable to do
15 so condition permission for a modification on the renter’s agreeing
16 to restore the interior of the premises to the condition that existed
17 before the modification (other than for reasonable wear and tear),
18 and includes refusal to make reasonable accommodations in rules,
19 policies, practices, or services when these accommodations may
20 be necessary to afford a disabled person equal opportunity to use
21 and enjoy a dwelling.
22 (2) “Discrimination” does not include either of the following:
23 (A) Refusal to rent or lease a portion of an owner-occupied
24 single-family house to a person as a roomer or boarder living within
25 the household, provided that no more than one roomer or boarder
26 is to live within the household, and the owner complies with

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Page 5 27 subdivision (c) of Section 12955, which prohibits discriminatory
28 notices, statements, and advertisements.
29 (B) Where the sharing of living areas in a single dwelling unit
30 is involved, the use of words stating or tending to imply that the
31 housing being advertised is available only to persons of one sex.
32 (d) "Housing accommodation" means any building, structure,
33 or portion thereof that is occupied as, or intended for occupancy
34 as, a residence by one or more families and any vacant land that
35 is offered for sale or lease for the construction thereon of any
36 building, structure, or portion thereof intended to be so occupied.
37 (e) "Owner" includes the lessee, sublessee, assignee, managing
38 agent, real estate broker or salesperson, or any person having any
39 legal or equitable right of ownership or possession or the right to
Page 6 1 rent or lease housing accommodations, and includes the state and
2 any of its political subdivisions and any agency thereof.
3 (f) "Person" includes all individuals and entities that are
4 described in Section 3602(d) of Title 42 of the United States Code,
5 and in the definition of "owner" in subdivision (e) of this section;
6 (e), and all institutional third parties, including the Federal Home
7 Loan Mortgage Corporation.
8 (g) "Aggrieved person" includes any person who claims to have
9 been injured by a discriminatory housing practice or believes that
10 the person will be injured by a discriminatory housing practice
11 that is about to occur.
12 (h) "Real estate-related transactions" include any of the
13 following:
14 (1) The making or purchasing of loans or providing other
15 financial assistance that is for the purpose of purchasing,
16 constructing, improving, repairing, or maintaining a dwelling, or
17 that is secured by residential real estate.
18 (2) The selling, brokering, or appraising of residential real
19 property.
20 (3) The use of territorial underwriting requirements, for the
21 purpose of requiring a borrower in a specific geographic area to
22 obtain earthquake insurance, required by an institutional third party
23 on a loan secured by residential real property.
24 (i) "Source of income" means lawful, verifiable income paid
25 directly to a tenant or paid to a representative of a tenant. "Source
26 of income" includes a federal Department of Housing and Urban
27 Development Veterans Affairs Supportive Housing voucher. For

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Amendment 2

Page 6 28 the purposes of this definition, *a housing owner or a landlord* is
29 not considered a representative of a tenant unless the source of
30 income is a federal Department of Housing and Urban
31 Development Veterans Affairs Supportive Housing voucher.
+ SEC. 4.1. Section 12927 of the Government Code is amended
+ to read:
+ 12927. As used in this part in connection with housing
+ accommodations, unless a different meaning clearly appears from
+ the context:
+ (a) “Affirmative actions” means any activity for the purpose of
+ eliminating discrimination in housing accommodations because
+ of race, color, religion, sex, marital status, national origin, ancestry,
+ familial status, or disability.
+ (b) “Conciliation council” means a nonprofit organization, or
+ a city or county human relations commission, which provides
+ education, factfinding, and mediation or conciliation services in
+ resolution of complaints of housing discrimination.
+ (c) (1) “Discrimination” includes refusal to sell, rent, or lease
+ housing accommodations; includes refusal to negotiate for the
+ sale, rental, or lease of housing accommodations; includes
+ representation that a housing accommodation is not available for
+ inspection, sale, or rental when that housing accommodation is in
+ fact so available; includes any other denial or withholding of
+ housing accommodations; includes provision of inferior terms,
+ conditions, privileges, facilities, or services in connection with
+ those housing accommodations; includes harassment in connection
+ with those housing accommodations; includes the cancellation or
+ termination of a sale or rental agreement; includes the provision
+ of segregated or separated housing accommodations; includes the
+ refusal to permit, at the expense of the disabled person, reasonable
+ modifications of existing premises occupied or to be occupied by
+ the disabled person, if the modifications may be necessary to afford
+ the disabled person full enjoyment of the premises, except that, in
+ the case of a rental, the landlord may, where it is reasonable to do
+ so condition permission for a modification on the renter’s agreeing
+ to restore the interior of the premises to the condition that existed
+ before the modification (other than for reasonable wear and tear),
+ and includes refusal to make reasonable accommodations in rules,
+ policies, practices, or services when these accommodations may

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- + be necessary to afford a disabled person equal opportunity to use
- + and enjoy a dwelling.
- + (2) “Discrimination” does not include either of the following:
- + (A) Refusal to rent or lease a portion of an owner-occupied
- + single-family house to a person as a roomer or boarder living within
- + the household, provided that no more than one roomer or boarder
- + is to live within the household, and the owner complies with
- + subdivision (c) of Section 12955, which prohibits discriminatory
- + notices, statements, and advertisements.
- + (B) Where the sharing of living areas in a single dwelling unit
- + is involved, the use of words stating or tending to imply that the
- + housing being advertised is available only to persons of one sex.
- + (d) “Housing accommodation” means any building, structure,
- + or portion thereof that is occupied as, or intended for occupancy
- + as, a residence by one or more families and any vacant land that
- + is offered for sale or lease for the construction thereon of any
- + building, structure, or portion thereof intended to be so occupied.
- + *“Housing accommodation” includes a building, structure, or*
- + *portion thereof that is occupied, or intended to be occupied,*
- + *pursuant to a transaction facilitated by a hosting platform, as*
- + *defined in Section 22590 of the Business and Professions Code.*
- + (e) “Owner” includes the lessee, sublessee, assignee, managing
- + agent, real estate broker or salesperson, or any person having any
- + legal or equitable right of ownership or possession or the right to
- + rent or lease housing accommodations, and includes the state and
- + any of its political subdivisions and any agency thereof.
- + (f) “Person” includes all individuals and entities that are
- + described in Section 3602(d) of Title 42 of the United States Code,
- + and in the definition of “owner” in subdivision (e) of this section,
- + (e), and all institutional third parties, including the Federal Home
- + Loan Mortgage Corporation.
- + (g) “Aggrieved person” includes any person who claims to have
- + been injured by a discriminatory housing practice or believes that
- + the person will be injured by a discriminatory housing practice
- + that is about to occur.
- + (h) “Real estate-related transactions” include any of the
- + following:
- + (1) The making or purchasing of loans or providing other
- + financial assistance that is for the purpose of purchasing,

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- + constructing, improving, repairing, or maintaining a dwelling, or
- + that is secured by residential real estate.
- + (2) The selling, brokering, or appraising of residential real
- + property.
- + (3) The use of territorial underwriting requirements, for the
- + purpose of requiring a borrower in a specific geographic area to
- + obtain earthquake insurance, required by an institutional third party
- + on a loan secured by residential real property.
- + (i) “Source of income” means lawful, verifiable income paid
- + directly to a tenant or paid to a representative of a tenant. “*Source*
- + *of income*” includes a federal Department of Housing and Urban
- + *Development Veterans Affairs Supportive Housing voucher*. For
- + the purposes of this definition, a housing owner or a landlord is
- + not considered a representative of a ~~tenant~~. *tenant unless the source*
- + *of income is a federal Department of Housing and Urban*
- + *Development Veterans Affairs Supportive Housing voucher*.
- + SEC. 4.2. Section 12927 of the Government Code is amended
- + to read:
- + 12927. As used in this part in connection with housing
- + accommodations, unless a different meaning clearly appears from
- + the context:
- + (a) “Affirmative actions” means any activity for the purpose of
- + eliminating discrimination in housing accommodations because
- + of race, color, religion, sex, marital status, national origin, ancestry,
- + familial status, or disability.
- + (b) “Conciliation council” means a nonprofit organization, or
- + a city or county human relations commission, which provides
- + education, factfinding, and mediation or conciliation services in
- + resolution of complaints of housing discrimination.
- + (c) (1) “Discrimination” includes refusal to sell, rent, or lease
- + housing accommodations; includes refusal to negotiate for the
- + sale, rental, or lease of housing accommodations; includes
- + representation that a housing accommodation is not available for
- + inspection, sale, or rental when that housing accommodation is in
- + fact so available; includes any other denial or withholding of
- + housing accommodations; includes provision of inferior terms,
- + conditions, privileges, facilities, or services in connection with
- + those housing accommodations; includes harassment in connection
- + with those housing accommodations; includes the cancellation or
- + termination of a sale or rental agreement; includes the provision

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- + of segregated or separated housing accommodations; includes the
- + refusal to permit, at the expense of the disabled person, reasonable
- + modifications of existing premises occupied or to be occupied by
- + the disabled person, if the modifications may be necessary to afford
- + the disabled person full enjoyment of the premises, except that, in
- + the case of a rental, the landlord may, where it is reasonable to do
- + so condition permission for a modification on the renter's agreeing
- + to restore the interior of the premises to the condition that existed
- + before the modification (other than for reasonable wear and tear),
- + and includes refusal to make reasonable accommodations in rules,
- + policies, practices, or services when these accommodations may
- + be necessary to afford a disabled person equal opportunity to use
- + and enjoy a dwelling.
- + (2) "Discrimination" does not include either of the following:
- + (A) Refusal to rent or lease a portion of an owner-occupied
- + single-family house to a person as a roomer or boarder living within
- + the household, provided that no more than one roomer or boarder
- + is to live within the household, and the owner complies with
- + subdivision (c) of Section 12955, which prohibits discriminatory
- + notices, statements, and advertisements.
- + (B) Where the sharing of living areas in a single dwelling unit
- + is involved, the use of words stating or tending to imply that the
- + housing being advertised is available only to persons of one sex.
- + (d) "Housing accommodation" means any building, structure,
- + or portion thereof that is occupied as, or intended for occupancy
- + as, a residence by one or more families and any vacant land that
- + is offered for sale or lease for the construction thereon of any
- + building, structure, or portion thereof intended to be so occupied.
- + (e) "Owner" includes the lessee, sublessee, assignee, managing
- + agent, real estate broker or salesperson, or any person having any
- + legal or equitable right of ownership or possession or the right to
- + rent or lease housing accommodations, and includes the state and
- + any of its political subdivisions and any agency thereof.
- + (f) "Person" includes all individuals and entities that are
- + described in Section 3602(d) of Title 42 of the United States Code,
- + and in the definition of "owner" in subdivision ~~(e) of this section,~~
- + ~~(e)~~, and all institutional third parties, including the Federal Home
- + Loan Mortgage Corporation.
- + (g) "Aggrieved person" includes any person who claims to have
- + been injured by a discriminatory housing practice or believes that

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- + the person will be injured by a discriminatory housing practice
- + that is about to occur.
- + (h) “Real estate-related transactions” include any of the
- + following:
- + (1) The making or purchasing of loans or providing other
- + financial assistance that is for the purpose of purchasing,
- + constructing, improving, repairing, or maintaining a dwelling, or
- + that is secured by residential real estate.
- + (2) The selling, brokering, or appraising of residential real
- + property.
- + (3) The use of territorial underwriting requirements, for the
- + purpose of requiring a borrower in a specific geographic area to
- + obtain earthquake insurance, required by an institutional third party
- + on a loan secured by residential real property.
- + (i) “Source of income” means lawful, verifiable income paid
- + directly to a ~~tenant~~ *tenant, or to a representative of a tenant, or*
- + ~~paid to a representative of a tenant. For the purposes of this~~
- + ~~definition, a landlord is not considered a representative of a tenant.~~
- + *housing owner or landlord on behalf of a tenant, including federal,*
- + *state, or local public assistance, and federal, state, or local housing*
- + *subsidies, including, but not limited to, federal housing assistance*
- + *vouchers issued under Section 8 of the United States Housing Act*
- + *of 1937 (42 U.S.C. Sec. 1437f). “Source of income” includes a*
- + *federal Department of Housing and Urban Development Veterans*
- + *Affairs Supportive Housing voucher. For the purposes of this*
- + *definition, a housing owner or landlord is not considered a*
- + *representative of a tenant unless the source of income is a federal*
- + *Department of Housing and Urban Development Veterans Affairs*
- + *Supportive Housing voucher.*
- + SEC. 4.3. *Section 12927 of the Government Code is amended*
- + *to read:*
- + 12927. As used in this part in connection with housing
- + accommodations, unless a different meaning clearly appears from
- + the context:
- + (a) “Affirmative actions” means any activity for the purpose of
- + eliminating discrimination in housing accommodations because
- + of race, color, religion, sex, marital status, national origin, ancestry,
- + familial status, or disability.
- + (b) “Conciliation council” means a nonprofit organization, or
- + a city or county human relations commission, which provides

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- + education, factfinding, and mediation or conciliation services in
- + resolution of complaints of housing discrimination.
- + (c) (1) “Discrimination” includes refusal to sell, rent, or lease
- + housing accommodations; includes refusal to negotiate for the
- + sale, rental, or lease of housing accommodations; includes
- + representation that a housing accommodation is not available for
- + inspection, sale, or rental when that housing accommodation is in
- + fact so available; includes any other denial or withholding of
- + housing accommodations; includes provision of inferior terms,
- + conditions, privileges, facilities, or services in connection with
- + those housing accommodations; includes harassment in connection
- + with those housing accommodations; includes the cancellation or
- + termination of a sale or rental agreement; includes the provision
- + of segregated or separated housing accommodations; includes the
- + refusal to permit, at the expense of the disabled person, reasonable
- + modifications of existing premises occupied or to be occupied by
- + the disabled person, if the modifications may be necessary to afford
- + the disabled person full enjoyment of the premises, except that, in
- + the case of a rental, the landlord may, where it is reasonable to do
- + so condition permission for a modification on the renter’s agreeing
- + to restore the interior of the premises to the condition that existed
- + before the modification (other than for reasonable wear and tear),
- + and includes refusal to make reasonable accommodations in rules,
- + policies, practices, or services when these accommodations may
- + be necessary to afford a disabled person equal opportunity to use
- + and enjoy a dwelling.
- + (2) “Discrimination” does not include either of the following:
- + (A) Refusal to rent or lease a portion of an owner-occupied
- + single-family house to a person as a roomer or boarder living within
- + the household, provided that no more than one roomer or boarder
- + is to live within the household, and the owner complies with
- + subdivision (c) of Section 12955, which prohibits discriminatory
- + notices, statements, and advertisements.
- + (B) Where the sharing of living areas in a single dwelling unit
- + is involved, the use of words stating or tending to imply that the
- + housing being advertised is available only to persons of one sex.
- + (d) “Housing accommodation” means any building, structure,
- + or portion thereof that is occupied as, or intended for occupancy
- + as, a residence by one or more families and any vacant land that
- + is offered for sale or lease for the construction thereon of any

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- + building, structure, or portion thereof intended to be so occupied.
- + *“Housing accommodation” includes a building, structure, or*
- + *portion thereof that is occupied, or intended to be occupied,*
- + *pursuant to a transaction facilitated by a hosting platform, as*
- + *defined in Section 22590 of the Business and Professions Code.*
- + (e) “Owner” includes the lessee, sublessee, assignee, managing
- + agent, real estate broker or salesperson, or any person having any
- + legal or equitable right of ownership or possession or the right to
- + rent or lease housing accommodations, and includes the state and
- + any of its political subdivisions and any agency thereof.
- + (f) “Person” includes all individuals and entities that are
- + described in Section 3602(d) of Title 42 of the United States Code,
- + and in the definition of “owner” in subdivision (e) of this section,
- + (e), and all institutional third parties, including the Federal Home
- + Loan Mortgage Corporation.
- + (g) “Aggrieved person” includes any person who claims to have
- + been injured by a discriminatory housing practice or believes that
- + the person will be injured by a discriminatory housing practice
- + that is about to occur.
- + (h) “Real estate-related transactions” include any of the
- + following:
 - + (1) The making or purchasing of loans or providing other
 - + financial assistance that is for the purpose of purchasing,
 - + constructing, improving, repairing, or maintaining a dwelling, or
 - + that is secured by residential real estate.
 - + (2) The selling, brokering, or appraising of residential real
 - + property.
 - + (3) The use of territorial underwriting requirements, for the
 - + purpose of requiring a borrower in a specific geographic area to
 - + obtain earthquake insurance, required by an institutional third party
 - + on a loan secured by residential real property.
- + (i) “Source of income” means lawful, verifiable income paid
- + directly to a ~~tenant~~ *tenant, or to a representative of a tenant, or*
- + ~~paid to a representative of a tenant. For the purposes of this~~
- + ~~definition, a landlord is not considered a representative of a tenant.~~
- + *housing owner or landlord on behalf of a tenant, including federal,*
- + *state, or local public assistance, and federal, state, or local housing*
- + *subsidies, including, but not limited to, federal housing assistance*
- + *vouchers issued under Section 8 of the United States Housing Act*
- + *of 1937 (42 U.S.C. Sec. 1437f). “Source of income” includes a*

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+ *federal Department of Housing and Urban Development Veterans*
+ *Affairs Supportive Housing voucher. For the purposes of this*
+ *definition, a housing owner or landlord is not considered a*
+ *representative of a tenant unless the source of income is a federal*
+ *Department of Housing and Urban Development Veterans Affairs*
+ *Supportive Housing voucher.*

Page 6 32 SEC. 5. Section 12930 of the Government Code, as amended
33 by Section 2 of Chapter 951 of the Statutes of 2018, is amended
34 to read:

35 12930. The department shall have the following functions,
36 powers, and duties:

37 (a) To establish and maintain a principal office and any other
38 offices within the state as are necessary to carry out the purposes
39 of this part.

40 (b) To meet and function at any place within the state.

Page 7 1 (c) To appoint attorneys, investigators, conciliators, mediators,
2 and other employees as it may deem necessary, fix their
3 compensation within the limitations provided by law, and prescribe
4 their duties.

5 (d) To obtain upon request and utilize the services of all
6 governmental departments and agencies and, in addition, with
7 respect to housing discrimination, of conciliation councils.

8 (e) To adopt, promulgate, amend, and rescind suitable procedural
9 rules and regulations to carry out the investigation, prosecution,
10 and dispute resolution functions and duties of the department
11 pursuant to this part.

12 (f) (1) To receive, investigate, conciliate, mediate, and prosecute
13 complaints alleging practices made unlawful pursuant to Chapter
14 6 (commencing with Section 12940).

15 (2) To receive, investigate, conciliate, mediate, and prosecute
16 complaints alleging a violation of Section 51, 51.5, 51.7, 51.9, 54,
17 54.1, or 54.2 of the Civil Code. The remedies and procedures of
18 this part shall be independent of any other remedy or procedure
19 that might apply.

20 (3) To receive, investigate, conciliate, mediate, and prosecute
21 complaints alleging, and to bring civil actions pursuant to Section
22 52.5 of the Civil Code for, a violation of Section 236.1 of the Penal
23 Code. Damages awarded in any action brought by the department
24 pursuant to Section 52.5 of the Civil Code shall be awarded to the
25 person harmed by the violation of Section 236.1 of the Penal Code.

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Page 7 26 Costs and attorney's fees awarded in any action brought by the
27 department pursuant to Section 52.5 of the Civil Code shall be
28 awarded to the department. The remedies and procedures of this
29 part shall be independent of any other remedy or procedure that
30 might apply.

31 (4) To receive, investigate, conciliate, mediate, and prosecute
32 complaints alleging practices made unlawful pursuant to Article
33 9.5 (commencing with Section 11135) of Chapter 1 of Part 1,
34 except for complaints relating to educational equity brought under
35 Chapter 2 (commencing with Section 200) of Part 1 of Division 1
36 of Title 1 of the Education Code and investigated pursuant to the
37 procedures set forth in Subchapter 5.1 of Title 5 of the California
38 Code of Regulations, and not otherwise within the jurisdiction of
39 the department.

Page 8 1 (A) Nothing in this part prevents the director or the director's
2 authorized representative, in that person's discretion, from making,
3 signing, and filing a complaint pursuant to Section 12960 or 12961
4 alleging practices made unlawful under Section 11135.

5 (B) Remedies available to the department in conciliating,
6 mediating, and prosecuting complaints alleging these practices are
7 the same as those available to the department in conciliating,
8 mediating, and prosecuting complaints alleging violations of Article
9 1 (commencing with Section 12940) of Chapter 6.

10 (g) In connection with any matter under investigation or in
11 question before the department pursuant to a complaint filed under
12 Section 12960, 12961, or 12980:

13 (1) To issue subpoenas to require the attendance and testimony
14 of witnesses and the production of books, records, documents, and
15 physical materials.

16 (2) To administer oaths, examine witnesses under oath and take
17 evidence, and take depositions and affidavits.

18 (3) To issue written interrogatories.

19 (4) To request the production for inspection and copying of
20 books, records, documents, and physical materials.

21 (5) To petition the superior courts to compel the appearance
22 and testimony of witnesses, the production of books, records,
23 documents, and physical materials, and the answering of
24 interrogatories.

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Page 8 25 (h) To bring civil actions pursuant to Section 12965 or 12981
26 and to prosecute those civil actions before state and federal trial
27 courts.
28 (i) To issue those publications and those results of investigations
29 and research as in its judgment will tend to promote goodwill and
30 minimize or eliminate discrimination in employment on the bases
31 enumerated in this part and discrimination in housing because of
32 race, religious creed, color, sex, gender, gender identity, gender
33 expression, marital status, national origin, ancestry, familial status,
34 disability, veteran or military status, genetic information, or sexual
35 orientation.
36 (j) To investigate, approve, certify, decertify, monitor, and
37 enforce nondiscrimination programs proposed by a contractor to
38 be engaged in pursuant to Section 12990.
39 (k) To render annually to the Governor and to the Legislature
40 a written report of its activities and of its recommendations.

Page 9 1 (l) To conduct mediations at any time after a complaint is filed
2 pursuant to Section 12960, 12961, or 12980. The department may
3 end mediation at any time.
4 (m) The following shall apply with respect to any accusation
5 pending before the former Fair Employment and Housing
6 Commission on or after January 1, 2013:
7 (1) If an accusation issued under former Section 12965 includes
8 a prayer either for damages for emotional injuries as a component
9 of actual damages, or for administrative fines, or both, or if an
10 accusation is amended for the purpose of adding a prayer either
11 for damages for emotional injuries as a component of actual
12 damages, or for administrative fines, or both, with the consent of
13 the party accused of engaging in unlawful practices, the department
14 may withdraw an accusation and bring a civil action in superior
15 court.
16 (2) If an accusation was issued under former Section 12981,
17 with the consent of the aggrieved party filing the complaint, an
18 aggrieved person on whose behalf a complaint is filed, or the party
19 accused of engaging in unlawful practices, the department may
20 withdraw the accusation and bring a civil action in superior court.
22 (3) Where removal to court is not feasible, the department shall
23 retain the services of the Office of Administrative Hearings to
24 adjudicate the administrative action pursuant to Sections 11370.3
25 and 11502.

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Page 9 26 (n) On any Section 1094.5 Code of Civil Procedure challenge
27 to a decision of the former Fair Employment and Housing
28 Commission pending on or after January 1, 2013, the director or
29 the director's designee shall consult with the Attorney General
30 regarding the defense of that writ petition.
+ SEC. 5.5. *Section 12930 of the Government Code is amended*
+ *to read:*
+ 12930. The department shall have the following functions,
+ ~~powers, and duties:~~ *duties, and powers:*
+ (a) To establish and maintain a principal office and any other
+ offices within the state as are necessary to carry out the purposes
+ of this part.
+ (b) To meet and function at any place within the state.
+ (c) To appoint attorneys, investigators, conciliators, mediators,
+ and other employees as it may deem necessary, fix their
+ compensation within the limitations provided by law, and prescribe
+ their duties.
+ (d) To obtain upon request and utilize the services of all
+ governmental departments and agencies and, in addition, with
+ respect to housing discrimination, of conciliation councils.
+ (e) To adopt, promulgate, amend, and rescind suitable procedural
+ rules and regulations to carry out the investigation, prosecution,
+ and dispute resolution functions and duties of the department
+ pursuant to this part.
+ (f) (1) To receive, investigate, conciliate, mediate, and prosecute
+ complaints alleging practices made unlawful pursuant to Chapter
+ 6 (commencing with Section 12940).
+ (2) To receive, investigate, conciliate, mediate, and prosecute
+ complaints alleging a violation of Section 51, 51.5, 51.7, 51.9, 54,
+ 54.1, or 54.2 of the Civil Code. The remedies and procedures of
+ this part shall be independent of any other remedy or procedure
+ that might apply.
+ (3) To receive, investigate, conciliate, mediate, and prosecute
+ complaints alleging, and to bring civil actions pursuant to Section
+ 52.5 of the Civil Code for, a violation of Section 236.1 of the Penal
+ Code. Damages awarded in any action brought by the department
+ pursuant to Section 52.5 of the Civil Code shall be awarded to the
+ person harmed by the violation of Section 236.1 of the Penal Code.
+ Costs and attorney's fees awarded in any action brought by the
+ department pursuant to Section 52.5 of the Civil Code shall be

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- + awarded to the department. The remedies and procedures of this
- + part shall be independent of any other remedy or procedure that
- + might apply.
- + (4) To receive, investigate, conciliate, mediate, and prosecute
- + complaints alleging practices made unlawful pursuant to Article
- + 9.5 (commencing with Section 11135) of Chapter 1 of Part 1,
- + except for complaints relating to educational equity brought under
- + Chapter 2 (commencing with Section 200) of Part 1 of Division 1
- + of Title 1 of the Education Code and investigated pursuant to the
- + procedures set forth in Subchapter 5.1 of Title 5 of the California
- + Code of Regulations, and not otherwise within the jurisdiction of
- + the department.
- + (A) Nothing in this part prevents the director or the director's
- + authorized representative, in that person's discretion, from making,
- + signing, and filing a complaint pursuant to Section 12960 or 12961
- + alleging practices made unlawful under Section 11135.
- + (B) Remedies available to the department in conciliating,
- + mediating, and prosecuting complaints alleging these practices are
- + the same as those available to the department in conciliating,
- + mediating, and prosecuting complaints alleging violations of Article
- + 1 (commencing with Section 12940) of Chapter 6.
- + (g) In connection with any matter under investigation or in
- + question before the department pursuant to a complaint filed under
- + Section 12960, 12961, or 12980:
- + (1) To issue subpoenas to require the attendance and testimony
- + of witnesses and the production of books, records, documents, and
- + physical materials.
- + (2) To administer oaths, examine witnesses under oath and take
- + evidence, and take depositions and affidavits.
- + (3) To issue written interrogatories.
- + (4) To request the production for inspection and copying of
- + books, records, documents, and physical materials.
- + (5) To petition the superior courts to compel the appearance
- + and testimony of witnesses, the production of books, records,
- + documents, and physical materials, and the answering of
- + interrogatories.
- + (h) To bring civil actions pursuant to Section 12965 or 12981
- + *of this code, or Title VII of the Civil Rights Act of 1964 (Public*
- + *Law 88-352; 42 U.S.C. Sec. 2000 et seq.), as amended, the federal*
- + *Americans with Disabilities Act of 1990 (Public Law 101-336; 42*

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- + *U.S.C. 12101, et seq.*), as amended, or the federal Fair Housing
- + Act (42 U.S.C. Sec. 3601 et seq.), and to prosecute those civil
- + actions before state and federal trial courts.
- + (i) To issue those publications and those results of investigations
- + and research as in its judgment will tend to promote goodwill and
- + minimize or eliminate discrimination in employment on the basis
- + bases enumerated in this part and discrimination in housing because
- + of race, religious creed, color, sex, gender, gender identity, gender
- + expression, marital status, national origin, ancestry, familial status,
- + disability, *veteran or military status*, genetic information, or sexual
- + orientation.
- + (j) To investigate, approve, certify, decertify, monitor, and
- + enforce nondiscrimination programs proposed by a contractor to
- + be engaged in pursuant to Section 12990.
- + (k) To render annually to the Governor and to the Legislature
- + a written report of its activities and of its recommendations.
- + (l) To conduct mediations at any time after a complaint is filed
- + pursuant to Section 12960, 12961, or 12980. The department may
- + end mediation at any time.
- + (m) The following shall apply with respect to any accusation
- + pending before the former Fair Employment and Housing
- + Commission on or after January 1, 2013:
- + (1) If an accusation issued under former Section 12965 includes
- + a prayer either for damages for emotional injuries as a component
- + of actual damages, or for administrative fines, or both, or if an
- + accusation is amended for the purpose of adding a prayer either
- + for damages for emotional injuries as a component of actual
- + damages, or for administrative fines, or both, with the consent of
- + the party accused of engaging in unlawful practices, the department
- + may withdraw an accusation and bring a civil action in superior
- + court.
- + (2) If an accusation was issued under former Section 12981,
- + with the consent of the aggrieved party filing the ~~complaint~~
- + *complaint*, an aggrieved person on whose behalf a complaint is
- + filed, or the party accused of engaging in unlawful practices, the
- + department may withdraw the accusation and bring a civil action
- + in superior court.
- + (3) Where removal to court is not feasible, the department shall
- + retain the services of the Office of Administrative Hearings to

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+ adjudicate the administrative action pursuant to Sections 11370.3
+ and 11502.

+ (n) On any Section 1094.5 Code of Civil Procedure challenge
+ to a decision of the former Fair Employment and Housing
+ Commission pending on or after January 1, 2013, the director or
+ the director's designee shall consult with the Attorney General
+ regarding the defense of that writ petition.

Page 9 31 SEC. 6. Section 12931 of the Government Code is amended
32 to read:

33 12931. The department may also provide assistance to
34 communities and persons therein in resolving disputes,
35 disagreements, or difficulties relating to discriminatory practices
36 based on race, religious creed, color, national origin, ancestry,
37 physical disability, mental disability, veteran or military status,
38 medical condition, genetic information, marital status, sex, gender,
39 gender identity, gender expression, familial status, age, or sexual
40 orientation that impair the rights of persons in those communities

Page 10 1 under the Constitution or laws of the United States or of this state.
2 The services of the department may be made available in cases of
3 these disputes, disagreements, or difficulties only when, in its
4 judgment, peaceful relations among the citizens of the community
5 involved are threatened thereby. The department's services are to
6 be made available only upon the request of an appropriate state or
7 local public body, or upon the request of any person directly
8 affected by any such dispute, disagreement, or difficulty.

9 The assistance of the department pursuant to this section shall
10 be limited to endeavors at investigation, conference, conciliation,
11 and persuasion.

12 SEC. 7. Section 12955 of the Government Code is amended
13 to read:

14 12955. It shall be unlawful:

15 (a) For the owner of any housing accommodation to discriminate
16 against or harass any person because of the race, color, religion,
17 sex, gender, gender identity, gender expression, sexual orientation,
18 marital status, national origin, ancestry, familial status, source of
19 income, disability, veteran or military status, or genetic information
20 of that person.

21 (b) For the owner of any housing accommodation to make or
22 to cause to be made any written or oral inquiry concerning the
23 race, color, religion, sex, gender, gender identity, gender

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Page 10 24 expression, sexual orientation, marital status, national origin,
25 ancestry, familial status, disability, veteran or military status, or
26 genetic information of any person seeking to purchase, rent, or
27 lease any housing accommodation.
28 (c) For any person to make, print, or publish, or cause to be
29 made, printed, or published any notice, statement, or advertisement,
30 with respect to the sale or rental of a housing accommodation that
31 indicates any preference, limitation, or discrimination based on
32 race, color, religion, sex, gender, gender identity, gender
33 expression, sexual orientation, marital status, national origin,
34 ancestry, familial status, source of income, disability, veteran or
35 military status, or genetic information or an intention to make that
36 preference, limitation, or discrimination.
37 (d) For any person subject to the provisions of Section 51 of
38 the Civil Code, as that section applies to housing accommodations,
39 to discriminate against any person on the basis of sex, gender,
40 gender identity, gender expression, sexual orientation, color, race,
Page 11 1 religion, ancestry, national origin, familial status, marital status,
2 disability, genetic information, source of income, veteran or
3 military status, or on any other basis prohibited by that section.
4 Selection preferences based on age, imposed in connection with
5 a federally approved housing program, do not constitute age
6 discrimination in housing.
7 (e) For any person, bank, mortgage company, or other financial
8 institution that provides financial assistance for the purchase,
9 organization, or construction of any housing accommodation to
10 discriminate against any person or group of persons because of
11 the race, color, religion, sex, gender, gender identity, gender
12 expression, sexual orientation, marital status, national origin,
13 ancestry, familial status, source of income, disability, veteran or
14 military status, or genetic information in the terms, conditions, or
15 privileges relating to the obtaining or use of that financial
16 assistance.
17 (f) For any owner of housing accommodations to harass, evict,
18 or otherwise discriminate against any person in the sale or rental
19 of housing accommodations when the owner's dominant purpose
20 is retaliation against a person who has opposed practices unlawful
21 under this section, informed law enforcement agencies of practices
22 believed unlawful under this section, has testified or assisted in
23 any proceeding under this part, or has aided or encouraged a person

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Page 11 24 to exercise or enjoy the rights secured by this part. Nothing herein
25 is intended to cause or permit the delay of an unlawful detainer
26 action.
27 (g) For any person to aid, abet, incite, compel, or coerce the
28 doing of any of the acts or practices declared unlawful in this
29 section, or to attempt to do so.
30 (h) For any person, for profit, to induce any person to sell or
31 rent any dwelling by representations regarding the entry or
32 prospective entry into the neighborhood of a person or persons of
33 a particular race, color, religion, sex, gender, gender identity,
34 gender expression, sexual orientation, marital status, ancestry,
35 disability, genetic information, source of income, familial status,
36 veteran or military status, or national origin.
37 (i) For any person or other organization or entity whose business
38 involves real estate-related transactions to discriminate against
39 any person in making available a transaction, or in the terms and
40 conditions of a transaction, because of race, color, religion, sex,
Page 12 1 gender, gender identity, gender expression, sexual orientation,
2 marital status, national origin, ancestry, source of income, familial
3 status, disability, veteran or military status, or genetic information.
4 (j) To deny a person access to, or membership or participation
5 in, a multiple listing service, real estate brokerage organization,
6 or other service because of race, color, religion, sex, gender, gender
7 identity, gender expression, sexual orientation, marital status,
8 ancestry, disability, genetic information, familial status, source of
9 income, veteran or military status, or national origin.
10 (k) To otherwise make unavailable or deny a dwelling based
11 on discrimination because of race, color, religion, sex, gender,
12 gender identity, gender expression, sexual orientation, familial
13 status, source of income, disability, genetic information, veteran
14 or military status, or national origin.
15 (l) To discriminate through public or private land use practices,
16 decisions, and authorizations because of race, color, religion, sex,
17 gender, gender identity, gender expression, sexual orientation,
18 familial status, marital status, disability, genetic information,
19 national origin, source of income, veteran or military status, or
20 ancestry. Discrimination includes, but is not limited to, restrictive
21 covenants, zoning laws, denials of use permits, and other actions
22 authorized under the Planning and Zoning Law (Title 7

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Page 12 23 (commencing with Section 65000)), that make housing
24 opportunities unavailable.
25 Discrimination under this subdivision also includes the existence
26 of a restrictive covenant, regardless of whether accompanied by a
27 statement that the restrictive covenant is repealed or void.
28 (m) As used in this section, “race, color, religion, sex, gender,
29 gender identity, gender expression, sexual orientation, marital
30 status, national origin, ancestry, familial status, source of income,
31 disability, veteran or military status, or genetic information,”
32 includes a perception that the person has any of those
33 characteristics or that the person is associated with a person who
34 has, or is perceived to have, any of those characteristics.
35 (n) To use a financial or income standard in the rental of housing
36 that fails to account for the aggregate income of persons residing
37 together or proposing to reside together on the same basis as the
38 aggregate income of married persons residing together or proposing
39 to reside together.
Page 13 1 (o) In instances where there is a government rent subsidy, to
2 use a financial or income standard in assessing eligibility for the
3 rental of housing that is not based on the portion of the rent to be
4 paid by the tenant.
5 (p) (1) For the purposes of this section, “source of income”
6 means lawful, verifiable income paid directly to a tenant or paid
7 to a representative of a tenant. “Source of income” includes a
8 federal Department of Housing and Urban Development Veterans
9 Affairs Supportive Housing voucher. For the purposes of this
10 section, a *housing owner or* landlord is not considered a
11 representative of a tenant unless the source of income is a federal
12 Department of Housing and Urban Development Veterans Affairs
13 Supportive Housing voucher.
14 (2) For the purposes of this section, it shall not constitute
15 discrimination based on source of income to make a written or
16 oral inquiry concerning the level or source of income.
+ SEC. 7.5. *Section 12955 of the Government Code is amended*
+ *to read:*
+ 12955. It shall be unlawful:
+ (a) For the owner of any housing accommodation to discriminate
+ against or harass any person because of the race, color, religion,
+ sex, gender, gender identity, gender expression, sexual orientation,
+ marital status, national origin, ancestry, familial status, source of

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- + income, disability, *veteran or military status*, or genetic information of that person.
- + (b) For the owner of any housing accommodation to make or to cause to be made any written or oral inquiry concerning the race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, disability, *veteran or military status*, or genetic information of any person seeking to purchase, rent, or lease any housing accommodation.
- + (c) For any person to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a housing accommodation that indicates any preference, limitation, or discrimination based on race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, *veteran or military status*, or genetic information or an intention to make that preference, limitation, or discrimination.
- + (d) For any person subject to the provisions of Section 51 of the Civil Code, as that section applies to housing accommodations, to discriminate against any person on the basis of sex, gender, gender identity, gender expression, sexual orientation, color, race, religion, ancestry, national origin, familial status, marital status, disability, genetic information, source of income, *veteran or military status*, or on any other basis prohibited by that section. Selection preferences based on age, imposed in connection with a federally approved housing program, do not constitute age discrimination in housing.
- + (e) For any person, bank, mortgage company, or other financial institution that provides financial assistance for the purchase, organization, or construction of any housing accommodation to discriminate against any person or group of persons because of the race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, *veteran or military status*, or genetic information in the terms, conditions, or privileges relating to the obtaining or use of that financial assistance.
- + (f) For any owner of housing accommodations to harass, evict, or otherwise discriminate against any person in the sale or rental

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+ of housing accommodations when the owner's dominant purpose
+ is retaliation against a person who has opposed practices unlawful
+ under this section, informed law enforcement agencies of practices
+ believed unlawful under this section, has testified or assisted in
+ any proceeding under this part, or has aided or encouraged a person
+ to exercise or enjoy the rights secured by this part. Nothing herein
+ is intended to cause or permit the delay of an unlawful detainer
+ action.

+ (g) For any person to aid, abet, incite, compel, or coerce the
+ doing of any of the acts or practices declared unlawful in this
+ section, or to attempt to do so.

+ (h) For any person, for profit, to induce any person to sell or
+ rent any dwelling by representations regarding the entry or
+ prospective entry into the neighborhood of a person or persons of
+ a particular race, color, religion, sex, gender, gender identity,
+ gender expression, sexual orientation, marital status, ancestry,
+ disability, genetic information, source of income, familial status,
+ *veteran or military status*, or national origin.

+ (i) For any person or other organization or entity whose business
+ involves real estate-related transactions to discriminate against
+ any person in making available a transaction, or in the terms and
+ conditions of a transaction, because of race, color, religion, sex,
+ gender, gender identity, gender expression, sexual orientation,
+ marital status, national origin, ancestry, source of income, familial
+ status, disability, *veteran or military status*, or genetic information.

+ (j) To deny a person access to, or membership or participation
+ in, a multiple listing service, real estate brokerage organization,
+ or other service because of race, color, religion, sex, gender, gender
+ identity, gender expression, sexual orientation, marital status,
+ ancestry, disability, genetic information, familial status, source of
+ income, *veteran or military status*, or national origin.

+ (k) To otherwise make unavailable or deny a dwelling based
+ on discrimination because of race, color, religion, sex, gender,
+ gender identity, gender expression, sexual orientation, familial
+ status, source of income, disability, genetic information, *veteran*
+ *or military status*, or national origin.

+ (l) To discriminate through public or private land use practices,
+ decisions, and authorizations because of race, color, religion, sex,
+ gender, gender identity, gender expression, sexual orientation,
+ familial status, marital status, disability, genetic information,

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+ national origin, source of income, *veteran or military status*, or
+ ancestry. Discrimination includes, but is not limited to, restrictive
+ covenants, zoning laws, denials of use permits, and other actions
+ authorized under the Planning and Zoning Law (Title 7
+ (commencing with Section 65000)), that make housing
+ opportunities unavailable.

+ Discrimination under this subdivision also includes the existence
+ of a restrictive covenant, regardless of whether accompanied by a
+ statement that the restrictive covenant is repealed or void.

+ (m) As used in this section, “race, color, religion, sex, gender,
+ gender identity, gender expression, sexual orientation, marital
+ status, national origin, ancestry, familial status, source of income,
+ disability, *veteran or military status*, or genetic information,”
+ includes a perception that the person has any of those
+ characteristics or that the person is associated with a person who
+ has, or is perceived to have, any of those characteristics.

+ (n) To use a financial or income standard in the rental of housing
+ that fails to account for the aggregate income of persons residing
+ together or proposing to reside together on the same basis as the
+ aggregate income of married persons residing together or proposing
+ to reside together.

+ (o) In instances where there is a government rent subsidy, to
+ use a financial or income standard in assessing eligibility for the
+ rental of housing that is not based on the portion of the rent to be
+ paid by the tenant.

+ (p) (1) For the purposes of this section, “source of income”
+ means lawful, verifiable income paid directly to a ~~tenant or paid~~
+ ~~to a representative of a tenant. For the purposes of this section, a~~
+ ~~landlord is not considered a representative of a tenant. tenant, or~~
+ ~~to a representative of a tenant, or paid to a housing owner or~~
+ ~~landlord on behalf of a tenant, including federal, state, or local~~
+ ~~public assistance, and federal, state, or local housing subsidies,~~
+ ~~including, but not limited to, federal housing assistance vouchers~~
+ ~~issued under Section 8 of the United States Housing Act of 1937~~
+ ~~(42 U.S.C. Sec. 1437f). “Source of income” includes a federal~~
+ ~~Department of Housing and Urban Development Veterans Affairs~~
+ ~~Supportive Housing voucher. For the purposes of this section, a~~
+ ~~housing owner or landlord is not considered a representative of~~
+ ~~a tenant unless the source of income is a federal Department of~~

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+ *Housing and Urban Development Veterans Affairs Supportive*
+ *Housing voucher.*

+ (2) For the purposes of this section, it shall not constitute
+ discrimination based on source of income to make a written or
+ oral inquiry concerning the level or source of income.

Page 13 17 SEC. 8. Section 12955.8 of the Government Code is amended
18 to read:

19 12955.8. For purposes of this article, in connection with
20 unlawful practices:

21 (a) Proof of an intentional violation of this article includes, but
22 is not limited to, an act or failure to act that is otherwise covered
23 by this part, that demonstrates an intent to discriminate in any
24 manner in violation of this part. A person intends to discriminate
25 if race, color, religion, sex, gender, gender identity, gender
26 expression, sexual orientation, marital status, national origin,
27 ancestry, familial status, source of income, disability, veteran or
28 military status, or genetic information is a motivating factor in
29 committing a discriminatory housing practice even though other
30 factors may have also motivated the practice. An intent to
31 discriminate may be established by direct or circumstantial
32 evidence.

33 (b) Proof of a violation causing a discriminatory effect is shown
34 if an act or failure to act that is otherwise covered by this part, and
35 that has the effect, regardless of intent, of unlawfully discriminating
36 on the basis of race, color, religion, sex, gender, gender identity,
37 gender expression, sexual orientation, marital status, national
38 origin, ancestry, familial status, source of income, disability,
39 veteran or military status, or genetic information. A business
40 establishment whose action or inaction has an unintended
Page 14 1 discriminatory effect shall not be considered to have committed
2 an unlawful housing practice in violation of this part if the business
3 establishment can establish that the action or inaction is necessary
4 to the operation of the business and effectively carries out the
5 significant business need it is alleged to serve. In cases that do not
6 involve a business establishment, the person whose action or
7 inaction has an unintended discriminatory effect shall not be
8 considered to have committed an unlawful housing practice in
9 violation of this part if the person can establish that the action or
10 inaction is necessary to achieve an important purpose sufficiently

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Page 14 11 compelling to override the discriminatory effect and effectively
12 carries out the purpose it is alleged to serve.
13 (1) Any determination of a violation pursuant to this subdivision
14 shall consider whether or not there are feasible alternatives that
15 would equally well or better accomplish the purpose advanced
16 with a less discriminatory effect.
17 (2) For purposes of this subdivision, the term “business
18 establishment” shall have the same meaning as in Section 51 of
19 the Civil Code.
20 SEC. 9. Section 12956.1 of the Government Code is amended
21 to read:
22 12956.1. (a) As used in this section, “association,” “governing
23 documents,” and “declaration” have the same meanings as set forth
24 in Sections 4080, 4135, and 4150 or Sections 6528, 6546, and
25 6552 of the Civil Code.
26 (b) (1) A county recorder, title insurance company, escrow
27 company, real estate broker, real estate agent, or association that
28 provides a copy of a declaration, governing document, or deed to
29 any person shall place a cover page or stamp on the first page of
30 the previously recorded document or documents stating, in at least
31 14-point boldface type, the following:
+
33 “If this document contains any restriction based on race, color,
34 religion, sex, gender, gender identity, gender expression, sexual
35 orientation, familial status, marital status, disability, veteran or
36 military status, genetic information, national origin, source of
37 income as defined in subdivision (p) of Section 12955, or ancestry,
38 that restriction violates state and federal fair housing laws and is
39 void, and may be removed pursuant to Section 12956.2 of the
40 Government Code. Lawful restrictions under state and federal law
Page 15 1 on the age of occupants in senior housing or housing for older
2 persons shall not be construed as restrictions based on familial
3 status.”
+
5 (2) The requirements of paragraph (1) shall not apply to
6 documents being submitted for recordation to a county recorder.
7 (c) Any person who records a document for the express purpose
8 of adding a racially restrictive covenant is guilty of a misdemeanor.
9 The county recorder shall not incur any liability for recording the
10 document. Notwithstanding any other provision of law, a

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Page 15 11 prosecution for a violation of this subdivision shall commence
12 within three years after the discovery of the recording of the
13 document.
14 SEC. 10. Section 12956.2 of the Government Code is amended
15 to read:
16 12956.2. (a) A person who holds an ownership interest of
17 record in property that the person believes is the subject of an
18 unlawfully restrictive covenant in violation of subdivision (l) of
19 Section 12955 may record a document titled Restrictive Covenant
20 Modification. The county recorder may choose to waive the fee
21 prescribed for recording and indexing instruments pursuant to
22 Section 27361 in the case of the modification document provided
23 for in this section. The modification document shall include a
24 complete copy of the original document containing the unlawfully
25 restrictive language with the unlawfully restrictive language
26 stricken.
27 (b) Before recording the modification document, the county
28 recorder shall submit the modification document and the original
29 document to the county counsel who shall determine whether the
30 original document contains an unlawful restriction based on race,
31 color, religion, sex, gender, gender identity, gender expression,
32 sexual orientation, familial status, marital status, disability, veteran
33 or military status, national origin, source of income as defined in
34 subdivision (p) of Section 12955, or ancestry. The county counsel
35 shall return the documents and inform the county recorder of its
36 determination. The county recorder shall refuse to record the
37 modification document if the county counsel finds that the original
38 document does not contain an unlawful restriction as specified in
39 this paragraph.
Page 16 1 (c) The modification document shall be indexed in the same
2 manner as the original document being modified. It shall contain
3 a recording reference to the original document in the form of a
4 book and page or instrument number, and date of the recording.
5 (d) Subject to covenants, conditions, and restrictions that were
6 recorded after the recording of the original document that contains
7 the unlawfully restrictive language and subject to covenants,
8 conditions, and restrictions that will be recorded after the
9 Restrictive Covenant Modification, the restrictions in the
10 Restrictive Covenant Modification, once recorded, are the only
11 restrictions having effect on the property. The effective date of the

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Page 16 12 terms and conditions of the modification document shall be the
13 same as the effective date of the original document.
14 (e) The county recorder shall make available to the public
15 Restrictive Covenant Modification forms.
16 (f) If the holder of an ownership interest of record in property
17 causes to be recorded a modified document pursuant to this section
18 that contains modifications not authorized by this section, the
19 county recorder shall not incur liability for recording the document.
20 The liability that may result from the unauthorized recordation is
21 the sole responsibility of the holder of the ownership interest of
22 record who caused the modified recordation.
23 (g) This section does not apply to persons holding an ownership
24 interest in property that is part of a common interest development
25 as defined in Section 4100 or 6534 of the Civil Code if the board
26 of directors of that common interest development is subject to the
27 requirements of subdivision (b) of Section 4225 or of subdivision
28 (b) of Section 6606 of the Civil Code.
29 SEC. 11. If the Commission on State Mandates determines
30 that this act contains costs mandated by the state, reimbursement
31 to local agencies and school districts for those costs shall be made
32 pursuant to Part 7 (commencing with Section 17500) of Division
33 4 of Title 2 of the Government Code.
+ SEC. 12. Section 4.1 of this bill incorporates amendments to
+ Section 12927 of the Government Code proposed by both this bill
+ and Assembly Bill 1497. That section of this bill shall only become
+ operative if (1) both bills are enacted and become effective on or
+ before January 1, 2020, (2) each bill amends Section 12927 of the
+ Government Code, (3) this bill is enacted after Assembly Bill 1497,
+ and (4) Senate Bill 329 is not enacted, in which case Sections 4,
+ 4.2, and 4.3 of this bill shall not become operative.
+ SEC. 13. Section 4.2 of this bill incorporates amendments to
+ Section 12927 of the Government Code proposed by both this bill
+ and Senate Bill 329. That section of this bill shall only become
+ operative if (1) both bills are enacted and become effective on or
+ before January 1, 2020, (2) each bill amends Section 12927 of the
+ Government Code, (3) this bill is enacted after Senate Bill 329,
+ and (4) Assembly Bill 1497 is not enacted, in which case Sections
+ 4, 4.1, and 4.3 of this bill shall not become operative.
+ SEC. 14. Section 4.3 of this bill incorporates amendments to
+ Section 12927 of the Government Code proposed by this bill,

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- + *Assembly Bill 1497, and Senate Bill 329. That section shall only*
- + *become operative if (1) all three bills are enacted and become*
- + *effective on or before January 1, 2020, (2) each bill amends Section*
- + *12927 of the Government Code, and (3) this bill is enacted after*
- + *Assembly Bill 1497 and Senate Bill 329, in which case Sections 4,*
- + *4.1, and 4.2 of this bill shall not become operative.*
- + *SEC. 15. Section 5.5 of this bill incorporates amendments to*
- + *Section 12930 of the Government Code proposed by both this bill*
- + *and Assembly Bill 1820. That section of this bill shall only become*
- + *operative if (1) both bills are enacted and become effective on or*
- + *before January 1, 2020, (2) each bill amends Section 12930 of the*
- + *Government Code, and (3) this bill is enacted after Assembly Bill*
- + *1820, in which case Section 5 of this bill shall not become*
- + *operative.*
- + *SEC. 16. Section 7.5 of this bill incorporates amendments to*
- + *Section 12955 of the Government Code proposed by both this bill*
- + *and Senate Bill 329. That section of this bill shall only become*
- + *operative if (1) both bills are enacted and become effective on or*
- + *before January 1, 2020, (2) each bill amends Section 12955 of the*
- + *Government Code, and (3) this bill is enacted after Senate Bill*
- + *329, in which case Section 7 of this bill shall not become operative.*

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