



STATE CAPITOL  
P.O. BOX 942849  
SACRAMENTO, CA 94249-0124  
(916) 319-2800  
FAX (916) 319-2810

Assembly  
California Legislature  
Committee on Rules

RICHARD S. GORDON  
CHAIR

VICE CHAIR  
LING LING CHANG

MEMBERS  
AUTUMN R. BURKE  
NORA CAMPOS  
KEN COOLEY  
BILL DODD  
BRIAN W. JONES  
CHAD MAYES  
FREDDIE RODRIGUEZ  
MARIE WALDRON  
JIM WOOD

PATTY LOPEZ (D-ALT.)  
JAY OBERNOLTE (R-ALT.)

Thursday, April 23, 2015  
8:30 AM  
State Capitol, Room 3162

CONSENT AGENDA

**Bill Referrals**

1. Bill Re-referrals

[Page 2](#)

**Assembly Bills**

2. AB 289 (Melendez) Relative to Legislature: Legislative Employee Whistleblower Protection Act.

[Page 4](#)

**Resolutions**

3. ACR 52 (Frazier) Relative to Distracted Driving Awareness Month.

[Page 14](#)

**Requests to Add Urgency Clause**

4. AB 46 (Lackey) Relative to Controlled substances.
5. AB 1405 (Grove) Relative to Developmental centers: closure.

[Page 18](#)

[Page 26](#)

REGULAR AGENDA

**Assembly Bills**

6. AB 1109 (Wilk) Relative to Legislature: health benefits coverage.

[Page 34](#)

RE-REFERRAL OF BILLS

04/23/2015

RE-REFERRAL OF BILLS

Assembly Bill No.

Committee:

[AB 445](#)

JUDICIARY

[AB 1017](#)

LABOR AND EMPLOYMENT

[\\*AB 1386](#)

BUSINESS AND PROFESSIONS

[\\*\\*AB 1386](#)

JUDICIARY

[AB 1492](#)

ELECTIONS AND REDISTRICTING



STATE CAPITOL  
P.O. BOX 942849  
SACRAMENTO, CA 94249-0124  
(916) 319-2800  
FAX (916) 319-2810

Assembly  
California Legislature  
Committee on Rules  
RICHARD S. GORDON  
CHAIR

VICE CHAIR  
LING LING CHANG  
MEMBERS  
AUTUMN R. BURKE  
NORA CAMPOS  
KEN COOLEY  
BILL DODD  
BRIAN W. JONES  
CHAD MAYES  
FREDDIE RODRIGUEZ  
MARIE WALDRON  
JIM WOOD  
PATTY LOPEZ (D-ALT.)  
JAY OBERNOLTE (R-ALT.)

# Memo

**To:** Rules Committee Members  
**From:** Mukhtar Ali, Bill Referral Consultant  
**Date:** 4/22/15  
**Re:** Consent Bill Re-referrals

---

Since you received the preliminary list of bill re-referrals, there have been no changes.

AMENDED IN ASSEMBLY MARCH 19, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 289**

---

**Introduced by Assembly Member Melendez**

February 11, 2015

---

An act to add Article 11 (commencing with Section 9149.30) to Chapter 1.5 of Part 1 of Division 2 of Title 2 of the Government Code, relating to the Legislature.

LEGISLATIVE COUNSEL'S DIGEST

AB 289, as amended, Melendez. Legislature: Legislative Employee Whistleblower Protection Act.

Existing law provides procedures for a person to file a complaint alleging violations of legislative ethics. Existing law also authorizes each house of the Legislature to adopt rules for its proceedings and to select committees necessary for the conduct of its business.

This bill would prohibit interference with the right of legislative employees, as defined, to make protected disclosures of ethics violations and would prohibit retaliation against legislative employees who have made protected disclosures. This bill would establish a procedure for legislative employees to report violations of the bill to the Legislature. The bill would also impose civil and criminal liability on a person who interferes with a legislative employee's right to make a protected disclosure or who engages in retaliatory acts, as specified.

By creating new crimes, the bill would impose a state-mandated local program.

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

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

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

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

1 SECTION 1. Article 11 (commencing with Section 9149.30)  
2 is added to Chapter 1.5 of Part 1 of Division 2 of Title 2 of the  
3 Government Code, to read:

4  
5 Article 11. Legislative Employee Whistleblower Protection Act  
6

7 9149.30. This article shall be known and may be cited as the  
8 Legislative Employee Whistleblower Protection Act.

9 9149.31. The Legislature finds and declares that legislative  
10 employees should be free to report ethical violations without fear  
11 of retribution.

12 9149.32. For the purposes of this article, the following terms  
13 have the following meanings:

14 (a) "Legislative employee" means an individual, other than a  
15 Member of either house of the Legislature, who is currently  
16 employed by either house of the Legislature.

17 (b) "Protected disclosure" means the filing of a complaint  
18 ~~alleging a violation of Article 2 of Chapter 1 of this part or of any~~  
19 ~~with any of the following:~~

20 (1) *The Joint Legislative Ethics Committee pursuant to Section*  
21 *8944, alleging a violation by a member of the Legislature.*

22 (2) *The Senate Committee on Legislative Ethics, alleging that*  
23 *a Member, officer, or employee of the Senate violated any standard*  
24 *of conduct, as defined by the standing rules of either house of the*  
25 ~~*Legislature; the Senate.*~~

26 (3) *The Assembly Legislative Ethics Committee, alleging that*  
27 *a Member of the Assembly violated any standard of conduct, as*  
28 *defined by the standing rules of the Assembly.*

29 (4) *The Assembly Rules Committee, alleging that an employee*  
30 *of the Assembly violated Article 2 of Chapter 1 of this part.*

31 (5) *An ethics ombudsperson designated by either house of the*  
32 *Legislature to receive information about potential ethical*  
33 *violations.*

(c) “Use of official authority or influence” includes promising to confer, or conferring, any benefit; effecting, or threatening to effect, any reprisal; or taking, or directing others to take, or recommending, processing, or approving, any personnel action, including; appointment, promotion, transfer, assignment, performance evaluation, suspension, or other disciplinary action.

9149.33. (a) A Member of the Legislature or legislative employee shall not directly or indirectly use or attempt to use that person’s official authority or influence ~~for the purpose of intimidating, threatening, coercing, commanding, or attempting to intimidate, threaten, coerce, or command, or attempt to intimidate, threaten, coerce, or command,~~ a legislative employee for the purpose of interfering with the right of the legislative employee to make a protected disclosure.

(b) Except to the extent that a Member of the Legislature is immune from liability under the doctrine of legislative immunity, a person who violates this section is subject to a fine not to exceed ten thousand dollars (\$10,000) and imprisonment in a county jail for a period not to exceed one year.

(c) In addition to all other penalties provided by law, except to the extent that a Member of the Legislature is immune from liability under the doctrine of legislative immunity, a person who violates this section ~~shall be~~ *is* liable in a civil action for damages brought by a legislative employee.

(d) ~~Nothing in this~~ *This* section shall *not* be construed to authorize an individual to disclose information otherwise prohibited by or under law.

(e) This section is not intended to prevent a supervisor, manager, or other officer of the Legislature from taking, directing others to take, recommending, or approving any personnel action or from taking or failing to take a personnel action with respect to any legislative employee if the supervisor, manager, or other officer reasonably believes any action or inaction is justified on the basis of evidence separate ~~and apart~~ from the fact that the person has made a protected disclosure.

9149.34. A legislative employee may file a written complaint ~~with either his or her supervisor or manager, or with any other officer designated by the house of the Legislature pursuant to its rules by which he or she is employed,~~ alleging actual or attempted acts of reprisal, retaliation, threats, coercion, or similar improper

1 acts prohibited by Section 9149.33 *for having made a protected*  
2 *disclosure*. The complaint, together with a sworn statement under  
3 penalty of perjury that the contents of the complaint are true, or  
4 are believed by the affiant to be true, shall be filed within one year  
5 of the most recent improper act complained about.

6 9149.35. Except to the extent that a Member of the Legislature  
7 is immune from liability under the doctrine of legislative immunity,  
8 a person who intentionally engages in acts of reprisal, retaliation,  
9 threats, coercion, or similar acts against a legislative employee for  
10 having made a protected disclosure is subject to a fine not to exceed  
11 ten thousand dollars (\$10,000) and imprisonment in a county jail  
12 for a period not to exceed one year.

13 9149.36. (a) In addition to all other penalties provided by law,  
14 except to the extent that a Member of the Legislature is immune  
15 from liability under the doctrine of legislative immunity, a person  
16 who intentionally engages in acts of reprisal, retaliation, threats,  
17 coercion, or similar acts against a legislative employee for having  
18 made a protected disclosure ~~shall be~~ is liable in a civil action for  
19 damages brought by a legislative employee.

20 (b) (1) In any civil action, once it has been demonstrated by a  
21 preponderance of the evidence that an activity protected by this  
22 article was a contributing factor in the alleged retaliation against  
23 a legislative employee, the burden of proof ~~shall be~~ is on the  
24 offending party to demonstrate by clear and convincing evidence  
25 that the alleged action would have occurred for legitimate,  
26 independent reasons even if the legislative employee had not made  
27 a protected disclosure.

28 (2) Punitive damages may be awarded by the court if the acts  
29 of the offending party are proven to be malicious. If liability is  
30 established, the injured party ~~shall~~ is also ~~be~~ entitled to reasonable  
31 attorney's fees as provided by law.

32 (c) A legislative employee is not required to file a complaint  
33 pursuant to Section 9149.34 before bringing an action for civil  
34 damages.

35 (d) This section is not intended to prevent a supervisor, manager,  
36 or other officer of the Legislature from taking, directing others to  
37 take, recommending, or approving any personnel action or from  
38 taking or failing to take a personnel action with respect to any  
39 legislative employee if the supervisor, manager, or other officer  
40 reasonably believes any action or inaction is justified on the basis

1 of evidence separate and apart from the fact that the person has  
2 made a protected disclosure.

3 (e) For purposes of this section, “legislative employee” ~~shall~~  
4 ~~include~~ *includes* a former employee of the Legislature.

5 9149.37. This article does not diminish the rights, privileges,  
6 or remedies of a legislative employee under any other federal or  
7 state law.

8 SEC. 2. No reimbursement is required by this act pursuant to  
9 Section 6 of Article XIII B of the California Constitution because  
10 the only costs that may be incurred by a local agency or school  
11 district will be incurred because this act creates a new crime or  
12 infraction, eliminates a crime or infraction, or changes the penalty  
13 for a crime or infraction, within the meaning of Section 17556 of  
14 the Government Code, or changes the definition of a crime within  
15 the meaning of Section 6 of Article XIII B of the California  
16 Constitution.

O



Date of Hearing: April 23, 2015

TESTASSEMBLY COMMITTEE ON RULES

Richard Gordon, Chair

AB 289 (Melendez) – As Amended March 19, 2015

**SUBJECT:** Legislature: Legislative Employee Whistleblower Protection Act.

**SUMMARY:** Enacts the Legislative Employee Whistleblower Protection Act to prohibit an employee or Member of the Legislature from directly or indirectly using or attempting to use his or her official authority or influence to interfere with the right of the legislative employee to file a written complaint with the Joint Legislative Ethics Committee alleging that a Member of the Legislature has violated the Code of Ethics or any standard of conduct of either house of the Legislature, and prohibit retaliation against the employee for doing so. Specifically, **this bill:**

- 1) Prohibits a Member of the Legislature and a legislative employee from directly or indirectly using that person's official authority or influence to interfere with the right of a legislative employee to make a "protected disclosure."
- 2) Defines "protected disclosure" as a complaint alleging a violation of the Code of Ethics (commencing with section 8920 of the Government Code) filed with the Joint Legislative Ethics Committee, or of any standard of conduct defined by the standing rules of either house of the Legislature.
- 3) Authorizes a legislative employee to file a written complaint with either house of the Legislature pursuant to its rules alleging actual or attempted acts of reprisal, retaliation, threats, coercion, or similar improper acts prohibited under this bill, together with a sworn statement that the contents of the written complaint are true, or are believed by the affiant to be true, under penalty of perjury, within one year of the most recent improper act.
- 4) Subjects a Member of the Legislature or a legislative employee who uses his or her official authority or influence to interfere with the right of a current legislative employee to make a protected disclosure to a fine of up to \$10,000, imprisonment in a county jail for up to one year, and damages in a civil action, except to the extent that a Member of the Legislature is immune from liability under the doctrine of legislative immunity.
- 5) Subjects a Member of the Legislature or a legislative employee who intentionally engages in an act of retaliation against a current or former legislative employee for having made a protected disclosure to a fine of up to \$10,000, imprisonment in a county jail for up to one year, and damages in a civil action, except to the extent that a Member of the Legislature is immune from liability under the doctrine of legislative immunity.
- 6) Authorizes an award by the court of punitive damages where the acts of the offending party are proven to be malicious.
- 7) Provides that where liability has been established, the injured party would also be entitled to reasonable attorney's fees.
- 8) Provides that a legislative employee is not required to file a complaint before bringing an action for civil damages.

- 9) Declares that it would not diminish the rights, privileges, or remedies of any employee under any other federal or state law.

**EXISTING LAW:**

- 1) Pursuant to the California Whistleblower Protection Act (CWPA), prohibits “improper governmental activities” by state agencies and employees. (Government Code section 8547.2, 8547.4. All references hereinafter are to the Government Code, unless otherwise noted.)
- 2) Defines “improper governmental activity” as an activity by a state agency or by an employee that is undertaken in the performance of the employee’s duties, undertaken inside a state office, or, if undertaken outside a state office by the employee, directly relates to state government, whether or not that activity is within the scope of his or her employment, and that (1) is in violation of any state or federal law or regulation, including, but not limited to, corruption, malfeasance, bribery, theft of government property, fraudulent claims, fraud, coercion, conversion, malicious prosecution, misuse of government property, or willful omission to perform duty, (2) is in violation of an Executive order of the Governor, a California Rule of Court, or any policy or procedure mandated by the State Administrative Manual or State Contracting Manual, or (3) is economically wasteful, involves gross misconduct, incompetency, or inefficiency. (Section 8547.2(c).)
- 3) Defines employee to include former employees, but specifically excludes Members and staff of the Legislature and the Legislature itself from the definitions of “employee” and “state agency.” (Section 8547.2(a), (f).)
- 4) Directs the State Auditor to accept complaints by mail and via Internet, and to conduct investigations of alleged improper governmental activities, and authorizes the State Auditor to issue reports of its findings including recommended corrective actions if it finds reasonable cause to believe an improper governmental activity has occurred. (Sections 8547.4, 8547.5, 8547.7.)
- 5) Provides that the State Auditor shall permit complaints to be filed anonymously and shall keep the identity of all complainants and witnesses confidential unless given the express permission of the person, except that the State Auditor may make the disclosure to a law enforcement agency that is conducting a criminal investigation. (Section 8547.5.) There is no comparable provision in this bill to protect the confidentiality of complaints made by legislative employees.
- 6) Requires the State Auditor to keep confidential every investigation, including, but not limited to, all investigative files and work product, except that the State Auditor may issue a public report of an investigation that has substantiated an improper governmental activity, keeping confidential the identity of the employee or employees involved. (Section 8547.7.) There is no comparable provision in this bill to protect the confidentiality of complaints made by legislative employees.
- 7) Requires the employing state agency to take adverse employment action against any employee found by the State Auditor to have engaged or participated in improper governmental activity or to set forth in writing its reasons for not taking adverse action, and

likewise requires the employing agency to report on actions it has taken to implement the State Auditor's recommendations. (Sections 8547.4, 8547.7.)

- 8) Prohibits state employees and officers, other than Members and employees of the Legislature, from directly or indirectly using or attempting to use the official authority or influence of the employee for the purpose of intimidating, threatening, coercing, commanding, or attempting to intimidate, threaten, coerce, or command any person for the purpose of interfering with the rights conferred pursuant to the CWPA. (Section 8547.3.)
- 9) Defines "use of official authority or influence" to include promising to confer, or conferring, any benefit; effecting, or threatening to effect, any reprisal; or taking, or directing others to take, or recommending, processing, or approving, any personnel action, including, but not limited to, appointment, promotion, transfer, assignment, performance evaluation, suspension, or other disciplinary action. (Section 8547.3.)
- 10) Provides that any employee who violates the CWPA's prohibition against use of authority or influence to be liable in an action for civil damages brought by the offended person. (Section 8547.3.)
- 11) Makes a person who intentionally engages in acts of reprisal or retaliation in violation of the CWPA subject to a fine of up to \$10,000 and up to a year in county jail, and if that person is a civil service employee, subjects that person to discipline by adverse action. A person injured by such acts may bring an action for damages only after filing a complaint with the State Personnel Board (SPB) and the SPB issued, or failed to issue, findings of its hearings or investigation. (Section 8547.8.)
- 12) As part of the Code of Ethics, prohibits a Member of the Legislature from doing any of the following: (a) having any direct or indirect interest, financial or otherwise, which is in substantial conflict with the proper discharge of his or her duties in the public interest and responsibilities prescribed in state law; (b) accepting employment that he or she believes will impair independence or induce the disclosure of confidential information acquired in the course of official duties; (c) willfully and knowingly disclosing confidential information acquired in the course of official duties to any person for the purpose of pecuniary gain; (d) accepting anything of value in exchange for agreeing to take action on behalf of another person before any board or agency, except as specifically authorized; (e) accepting compensation, reward, or gift for any services related to the legislative process, except as specifically authorized; (f) participating, by voting or any other action, on any matter in which he or she has a personal interest, except as specifically authorized. (Section 8920.)
- 13) Makes the provisions of the Code of Ethics governing Members of the Legislature also applicable to any employee of either house of the Legislature. (Section 8924.)
- 14) Allows "any person" to file with the Joint Legislative Ethics Committee a written complaint against a Member of the Legislature, alleging that the Member is in violation of the Code of Ethics, commencing with section 8920 of the Government Code. (Section 8944 (a).)
- 15) Requires a complaint to the Joint Legislative Ethics Committee, alleging a violation of the Code of Ethics by a Member of the Legislature, to meet specified criteria (be in writing; state the name of the Member alleged to have committed a violation; set forth allegations with sufficient clarity and detail to enable the committee to make a determination whether there is

a violation; signed by the complainant under penalty of perjury; and include a statement that the facts are true of the complainant's own knowledge or that the complainant believes them to be true) in order to be considered a "valid complaint" and requires such complaints to be filed within 12 months of the alleged violation. (Section 8944 (b), (e).)

- 16) Requires the Joint Legislative Ethics Committee to promptly send a copy of each complaint it receives to the Member of the Legislature who is alleged to have committed the violation. (Section 8944 (d).)
- 17) Requires the Joint Legislative Ethics Committee to review each complaint it receives and determine whether the complaint alleges facts sufficient to constitute a violation of the Code of Ethics and, if so, to determine whether there is probable cause to believe that the allegations in a complaint are true. (Section 8945 (a).)
- 18) Requires the Joint Legislative Ethics Committee to investigate those complaints that state facts sufficient to constitute a violation of the Code of Ethics and, after such an investigation, to notify the complainant and respondent of its determination and either dismiss the complaint if it determines that probable cause does not exist, or schedule a hearing in the matter within 30 days. (Section 8945 (b).)
- 19) Requires the Joint Legislative Ethics Committee to make a written determination of whether the Member has violated the Code of Ethics and to provide its determination, to the house in which the respondent serves, the Attorney General, the Fair Political Practices Commission, and the district attorney of the county in which the alleged violation occurred, and to make the determination available as a public record. (Section 8945 (e).)
- 20) Provides in the California Constitution, specifically Cal. Const., art. IV, § 5, subd. (a), that each house of the legislature has the sole authority to judge the qualifications and elections of a candidate for membership in that house. (*Fuller v. Bowen* (2012) 203 Cal.App.4th 1476, 1479.)

**FISCAL EFFECT:** Unknown

**COMMENTS:** In support of the bill, the author states:

Currently, employees of the Legislature are not protected under the California Whistleblower Protection Act. This lack of protection discourages legislative employees from reporting information relating to improper governmental activity.

Every violation of the law by a public official is also a violation of the public trust. The Legislature has a responsibility to protect the integrity of the institution by creating an atmosphere of transparency and accountability. Given their proximity to members of the Legislature, legislative employees have a unique opportunity to help provide this accountability by reporting any suspicious or unethical behavior. This will not take place, however, if those employees are not afforded protections from intimidation or coercion.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

None on file

**Opposition**

None on file

**Analysis Prepared by:** Mukhtar Ali / RLS. / (916) 319-2800

AMENDED IN ASSEMBLY APRIL 16, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

## Assembly Concurrent Resolution

No. 52

---

Introduced by Assembly Member Frazier

March 26, 2015

---

Assembly Concurrent Resolution No. 52—Relative to distracted driving.

### LEGISLATIVE COUNSEL'S DIGEST

ACR 52, as amended, Frazier. Distracted Driving Awareness ~~Month~~ *Month*.

This measure would proclaim April 2015 as Distracted Driving Awareness Month and call for awareness of the distracted driving problem and support for programs and policies to reduce the incidence of distracted driving.

Fiscal committee: no.

- 1 WHEREAS, A 2013 statewide traffic safety survey conducted  
2 by the California Office of Traffic ~~Safety~~, *Safety* reported that  
3 more than 36 percent of Californians surveyed thought texting or  
4 talking on a cell phone while driving posed the biggest safety  
5 problem on California roadways; and  
6 *WHEREAS, Distracted driving is defined as any activity that*  
7 *could divert a person's attention away from the primary task of*  
8 *driving; and*  
9 *WHEREAS, Distracted driving takes three primary forms:*  
10 *(a) Visual distraction: tasks that require the driver to look away*  
11 *from the roadway to visually obtain information.*

1     **(b) Manual distraction:** tasks that require the driver to take a  
2     hand off the steering wheel and manipulate a device.

3     **(c) Cognitive distraction:** tasks that are defined as the mental  
4     workload associated with a task that involves thinking about  
5     something other than the task of driving; and

6  
7     WHEREAS, In 2013, nearly 70 percent of the California drivers  
8     surveyed said they had been hit or nearly hit by a driver who was  
9     talking or texting on a cell phone; and

10    WHEREAS, In 2013, 45 percent of the drivers surveyed said  
11    they have made a driving mistake while talking on a cell phone;  
12    and

13    WHEREAS, In 2013, nearly 48 percent of the drivers surveyed  
14    said that texting while driving is the most serious distraction for  
15    drivers; and

16    ~~WHEREAS, A 2012 statewide observational survey of cell~~  
17    ~~phone use by California drivers, showed that 7.4 percent of drivers~~  
18    ~~were using cell phones at any given time during daylight hours;~~  
19    ~~and~~

20    ~~WHEREAS, A 2012 nationwide survey conducted by the National~~  
21    ~~Highway Traffic Safety Administration showed that, in any given~~  
22    ~~daylight moment across the United States, of the 212 million~~  
23    ~~licensed drivers, about 600,000 are using cell phones or~~  
24    ~~manipulating electronic devices while driving; and~~

25    WHEREAS, In 2012, 3,328 people were killed and 421,000  
26    were injured in distraction-affected crashes; and

27    WHEREAS, To read or type the average text takes 4.6 seconds.  
28    Just three seconds of texting while driving at 65 mph is equal to  
29    driving 100 yards, equal to the length of a football field,  
30    blindfolded; and

31    WHEREAS, Engaging in visual-manual subtasks, such as  
32    reaching for a phone, dialing, and texting, associated with the use  
33    of handheld phones and other portable devices increased the risk  
34    of getting into a crash by three times; and

35    WHEREAS, Text messaging creates a crash risk 23 times worse  
36    than driving while not distracted; and

37    WHEREAS, According to the National Highway Traffic Safety  
38    Administration, only about 1 out of 5 young drivers think that  
39    texting makes no difference to their driving performance.  
40    Sixty-eight percent of young drivers 18 to 20 years of age are

1 willing to answer incoming phone calls on some, most, or all  
2 driving trips; and

3 WHEREAS, Parents who engage in distracting behaviors while  
4 driving more frequently have teens who do the same. According  
5 to a 2012 teen driver distraction study conducted jointly by the  
6 University of Michigan Transportation Research Institute and  
7 Toyota, teens send or read text messages once a trip 26 times more  
8 often than their parents think they do; now, ~~therefore~~ *therefore*,  
9 be it

10 *Resolved by the Assembly of the State of California, the Senate*  
11 *thereof concurring*, That the Legislature proclaims April 2015 as  
12 Distracted Driving Awareness Month and calls upon residents,  
13 government agencies, business leaders, hospitals, schools, and  
14 public and private institutions within the state to promote awareness  
15 of the distracted driving problem and to support programs and  
16 policies to reduce the incidence of distracted driving in California  
17 and nationwide; and ~~be it further:~~ *it further*

18 *Resolved*, That the Chief Clerk of the Assembly transmit copies  
19 of this resolution to the author for appropriate distribution.

O



Date of Hearing: April 23, 2015

ASSEMBLY COMMITTEE ON RULES  
Richard Gordon, Chair  
ACR 52 (Frazier) – As Amended April 16, 2015

**SUBJECT:** Distracted Driving Awareness Month.

**SUMMARY:** Proclaims April 2015 as Distracted Driving Awareness Month and call for awareness of the distracted driving problem and support for programs and policies to reduce the incidence of distracted driving. Specifically, **this resolution** makes the following legislative findings:

- 1) Distracted driving is defined as any activity that could divert a person's attention away from the primary task of driving; whether it is visual, manual, or cognitive distraction.
- 2) A 2013 statewide traffic safety survey conducted by the California Office of Traffic Safety reported that more than 36 percent of Californians surveyed thought texting or talking on a cell phone while driving posed the biggest safety problem on California roadways.
- 3) In 2012, 3,328 people were killed and 421,000 were injured in distraction-affected crashes.
- 4) In 2013, nearly 70 percent of the California drivers surveyed said they had been hit or nearly hit by a driver who was talking or texting on a cell phone.
- 5) Parents who engage in distracting behaviors while driving more frequently have teens who do the same; according to a 2012 teen driver distraction study conducted jointly by the University of Michigan Transportation Research Institute and Toyota, teens send or read text messages once a trip 26 times more often than their parents think they do.

**FISCAL EFFECT:** None

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

None on file

**Opposition**

None on file

**Analysis Prepared by:** Nicole Willis / RLS. / (916) 319-2800

AMENDED IN ASSEMBLY APRIL 9, 2015  
AMENDED IN ASSEMBLY MARCH 17, 2015  
AMENDED IN ASSEMBLY MARCH 4, 2015  
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 46**

---

**Introduced by Assembly Members ~~Member Lackey and Melendez~~**  
(Principal coauthors: Senators Galgiani, Nielsen, and Vidak)  
**(Coauthors: Assembly Members Travis Allen, Baker, Brough,**  
**Gallagher, Gonzalez, Hadley, Kim, Linder, Patterson, Rodriguez,**  
**Steinorth, Waldron, and Wilk)**  
(Coauthors: Senators Anderson, Bates, Huff, and Stone)

December 1, 2014

---

An act to ~~amend and repeal Sections 11350 and 11377 of~~ *add Sections 11350.5 and 11377.5 to* the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 46, as amended, Lackey. Controlled substances.

~~(1) Existing~~

*Existing* law, as amended by the Safe Neighborhoods and Schools Act, a measure approved by the voters at the November 4, 2014, statewide general election, generally provides that the possession of Ketamine, gamma hydroxybutyric acid (GHB), ~~and or~~ flunitrazepam is a misdemeanor, punishable by imprisonment in the county jail for not more than one year. ~~Existing law also provides that when a person has one or more prior convictions for certain enumerated crimes, his or her possession of GHB is a felony, punishable by imprisonment in a county jail for 16 months, or 2 or 3 years, and his or her possession~~

of Ketamine and flunitrazepam is either a misdemeanor, punishable by imprisonment in the county jail for not more than one year, or a felony, punishable by imprisonment in a county jail for 16 months, or 2 or 3 years.

This bill would instead provide, without regard for a person's prior convictions, that possession of Ketamine and flunitrazepam is either a misdemeanor, punishable by imprisonment in a county jail for not more than one year, or a felony, punishable by imprisonment in a county jail for 16 months, or 2 or 3 years. The bill would also provide that the possession of GHB by a person who does not have a prior conviction for those certain enumerated crimes is either a misdemeanor, punishable by imprisonment in a county jail for not more than one year, or a felony, punishable in a county jail for 16 months, or 2 or 3 years. This bill would make other technical, clarifying changes.

(2) Proposition 47 provides that its provisions may be amended by a statute that is consistent with and furthers its intent and that is passed by a  $\frac{2}{3}$  vote of each house of the Legislature and is signed by the Governor. Proposition 47 also provides that the Legislature may, by majority vote, amend, add, or repeal provisions to further reduce the penalties for offenses it addresses.

The California Constitution authorizes the Legislature to amend or repeal an initiative statute by another statute that becomes effective when approved by the electors.

This bill would provide that its provisions become effective only upon approval of the voters at the next statewide election, and would provide for the submission of this measure to the voters for approval at that election.

*This bill would make it a felony, punishable by imprisonment in the state prison for 16 months or 2 or 3 years, to possess Ketamine, GHB, or flunitrazepam with the intent to commit sexual assault. By creating a new crime, this bill would impose a state-mandated local program.*

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

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

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: ~~no~~-yes.

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

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

(a) Ketamine, gamma hydroxybutyric acid (GHB), and Rohypnol are drugs often characterized as “date rape” drugs.

(b) GHB is a central nervous system depressant that was approved for the treatment of narcolepsy. GHB has no color or taste, and is frequently combined with alcohol to commit sexual assault.

(c) Ketamine causes unconsciousness, hallucinations, loss of body control, and numbing. Ketamine works very quickly, so victims drugged with Ketamine only have a few seconds to react before losing consciousness.

(d) Rohypnol, also known by its chemical name of flunitrazepam, and sometimes referred to as “roofies,” impairs judgment and leaves victims drugged with Rohypnol physically incapacitated. Memory loss and confusion under the influence of this drug makes victims more vulnerable to rape.

(e) In order to deter the possession of Ketamine, GHB, and Rohypnol by sexual predators and to take steps to prevent the use of these drugs to incapacitate victims for purposes of sexual exploitation, it is necessary and appropriate that an individual who possesses one of these substances *for predatory purposes* be subject to felony penalties.

~~SEC. 2. Section 11350 of the Health and Safety Code is amended to read:~~

~~11350. (a) (1) Except as otherwise provided in this division, every person who possesses (1) a controlled substance specified in subdivision (b) or (c) of, or paragraph (1) or (2) of subdivision (c) of, or paragraph (1) of subdivision (f) of, Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section 11056, or (2) a controlled substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall be punished by imprisonment in a county jail for not more than one year, except that such person shall instead be punished pursuant to subdivision (h) of Section 1170 of the Penal Code if~~

1 that person has one or more prior convictions for an offense  
2 specified in clause (iv) of subparagraph (C) of paragraph (2) of  
3 subdivision (e) of Section 667 of the Penal Code or for an offense  
4 requiring registration pursuant to subdivision (e) of Section 290  
5 of the Penal Code.

6 (2) (A) Except as otherwise provided in subparagraph (B) and  
7 this division, every person who possesses a controlled substance  
8 specified in paragraph (3) of subdivision (e) of Section 11054 shall  
9 be punished by imprisonment in a county jail for not more than  
10 one year or pursuant to subdivision (h) of Section 1170 of the Penal  
11 Code.

12 (B) Except as otherwise provided in this division, every person  
13 who has one or more prior convictions for an offense specified in  
14 clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e)  
15 of Section 667 of the Penal Code or for an offense requiring  
16 registration pursuant to subdivision (e) of Section 290 of the Penal  
17 Code who possesses a controlled substance specified in paragraph  
18 (3) of subdivision (e) of Section 11054 shall be punished by  
19 imprisonment pursuant to subdivision (h) of Section 1170 of the  
20 Penal Code.

21 (b) Except as otherwise provided in this division, whenever a  
22 person who possesses any of the controlled substances specified  
23 in subdivision (a), the judge may, in addition to any punishment  
24 provided for pursuant to subdivision (a), assess against that person  
25 a fine not to exceed seventy dollars (\$70) with proceeds of this  
26 fine to be used in accordance with Section 1463.23 of the Penal  
27 Code. The court shall, however, take into consideration the  
28 defendant's ability to pay, and no defendant shall be denied  
29 probation because of his or her inability to pay the fine permitted  
30 under this subdivision.

31 (c) Except in unusual cases in which it would not serve the  
32 interest of justice to do so, whenever a court grants probation  
33 pursuant to a felony conviction under this section, in addition to  
34 any other conditions of probation which may be imposed, the  
35 following conditions of probation shall be ordered:

36 (1) For a first offense under this section, a fine of at least one  
37 thousand dollars (\$1,000) or community service.

38 (2) For a second or subsequent offense under this section, a fine  
39 of at least two thousand dollars (\$2,000) or community service.

1     ~~(3) If a defendant does not have the ability to pay the minimum~~  
2     ~~finest specified in paragraphs (1) and (2), community service shall~~  
3     ~~be ordered in lieu of the fine.~~

4     ~~(d) It is not unlawful for a person other than the prescription~~  
5     ~~holder to possess a controlled substance described in subdivision~~  
6     ~~(a) if both of the following apply:~~

7         ~~(1) The possession of the controlled substance is at the direction~~  
8         ~~or with the express authorization of the prescription holder.~~

9         ~~(2) The sole intent of the possessor is to deliver the prescription~~  
10        ~~to the prescription holder for its prescribed use or to discard the~~  
11        ~~substance in a lawful manner.~~

12     ~~(e) This section does not permit the use of a controlled substance~~  
13     ~~by a person other than the prescription holder or permit the~~  
14     ~~distribution or sale of a controlled substance that is otherwise~~  
15     ~~inconsistent with the prescription.~~

16     ~~SEC. 3. Section 11350 of the Health and Safety Code, as~~  
17     ~~amended by Section 1 of Chapter 540 of the Statutes of 2014, is~~  
18     ~~repealed.~~

19     ~~SEC. 4. Section 11377 of the Health and Safety Code is~~  
20     ~~amended to read:~~

21     ~~11377. (a) Except as authorized by law and as otherwise~~  
22     ~~provided in subdivision (b) or Section 11375, or in Article 3~~  
23     ~~(commencing with Section 4050) of Chapter 9 of Division 2 of~~  
24     ~~the Business and Professions Code, every person who possesses~~  
25     ~~a controlled substance which is (1) classified in Schedule III, IV,~~  
26     ~~or V, and which is not a narcotic drug, (2) specified in subdivision~~  
27     ~~(d) of Section 11054, except paragraphs (13), (14), (15), and (20)~~  
28     ~~of subdivision (d), (3) specified in paragraph (11) of subdivision~~  
29     ~~(e) of Section 11056, (4) specified in paragraph (2) or (3) of~~  
30     ~~subdivision (f) of Section 11054, or (5) specified in subdivision~~  
31     ~~(d), (e), or (f) of Section 11055, unless upon the prescription of a~~  
32     ~~physician, dentist, podiatrist, or veterinarian, licensed to practice~~  
33     ~~in this state, shall be punished by imprisonment in a county jail~~  
34     ~~for a period of not more than one year, except that such person~~  
35     ~~may instead be punished pursuant to subdivision (h) of Section~~  
36     ~~1170 of the Penal Code if that person has one or more prior~~  
37     ~~convictions for an offense specified in clause (iv) of subparagraph~~  
38     ~~(C) of paragraph (2) of subdivision (e) of Section 667 of the Penal~~  
39     ~~Code or for an offense requiring registration pursuant to~~  
40     ~~subdivision (e) of Section 290 of the Penal Code.~~

~~(b) Every person who possesses a controlled substance specified in subdivision (g) of Section 11056 or specified in paragraph (13) of subdivision (d) of Section 11057 shall be punished by imprisonment in a county jail for not more than one year or pursuant to subdivision (h) of Section 1170 of the Penal Code.~~

~~(e) The judge may assess a fine not to exceed seventy dollars (\$70) against any person who violates subdivision (a), with the proceeds of this fine to be used in accordance with Section 1463.23 of the Penal Code. The court shall, however, take into consideration the defendant's ability to pay, and no defendant shall be denied probation because of his or her inability to pay the fine permitted under this subdivision.~~

~~(d) It is not unlawful for a person other than the prescription holder to possess a controlled substance described in subdivision (a) if both of the following apply:~~

~~(1) The possession of the controlled substance is at the direction or with the express authorization of the prescription holder.~~

~~(2) The sole intent of the possessor is to deliver the prescription to the prescription holder for its prescribed use or to discard the substance in a lawful manner.~~

~~(e) This section does not permit the use of a controlled substance by a person other than the prescription holder or permit the distribution or sale of a controlled substance that is otherwise inconsistent with the prescription.~~

~~SEC. 5. Section 11377 of the Health and Safety Code, as amended by Section 2 of Chapter 540 of the Statutes of 2014, is repealed.~~

~~SEC. 6. (a) Sections 2 and 3 of this act amend the Safe Neighborhoods and Schools Act, Proposition 47, an initiative statute that was approved by the voters at the November 4, 2014, statewide general election, and shall become effective only when submitted to and approved by the voters.~~

~~(b) The Secretary of State shall submit Sections 1, 2, and 3 of this act for approval by the voters at the next statewide election pursuant to Section 9040 of the Election Code.~~

~~SEC. 2. Section 11350.5 is added to the Health and Safety Code, to read:~~

~~11350.5. (a) Except as otherwise provided in this division, a person who possesses a controlled substance specified in paragraph (3) of subdivision (e) of Section 11054 with the intent~~

1 *to commit sexual assault shall be punished by imprisonment in the*  
2 *state prison for 16 months, or two or three years.*

3 *(b) For purposes of this section, “sexual assault” includes, but*  
4 *is not limited to, a violation of paragraph (3) of subdivision (a) of*  
5 *Section 261 of the Penal Code, paragraph (2) of subdivision (a)*  
6 *of Section 262 of the Penal Code, subdivision (i) of Section 286*  
7 *of the Penal Code, subdivision (i) of Section 288a of the Penal*  
8 *Code, or subdivision (e) of Section 289 of the Penal Code.*

9 *SEC. 3. Section 11377.5 is added to the Health and Safety*  
10 *Code, to read:*

11 *11377.5. (a) Except as otherwise provided in this division, a*  
12 *person who possesses a controlled substance specified in*  
13 *paragraph (11) of subdivision (c) of, or subdivision (g) of, Section*  
14 *11056, or paragraph (13) of subdivision (d) of Section 11057 with*  
15 *the intent to commit sexual assault shall be punished by*  
16 *imprisonment in the state prison for 16 months, or two or three*  
17 *years.*

18 *(b) For purposes of this section, “sexual assault” includes, but*  
19 *is not limited to, a violation of paragraph (3) of subdivision (a) of*  
20 *Section 261 of the Penal Code, paragraph (2) of subdivision (a)*  
21 *of Section 262 of the Penal Code, subdivision (i) of Section 286*  
22 *of the Penal Code, subdivision (i) of Section 288a of the Penal*  
23 *Code, or subdivision (e) of Section 289 of the Penal Code.*

24 *SEC. 4. No reimbursement is required by this act pursuant to*  
25 *Section 6 of Article XIII B of the California Constitution because*  
26 *the only costs that may be incurred by a local agency or school*  
27 *district will be incurred because this act creates a new crime or*  
28 *infraction, eliminates a crime or infraction, or changes the penalty*  
29 *for a crime or infraction, within the meaning of Section 17556 of*  
30 *the Government Code, or changes the definition of a crime within*  
31 *the meaning of Section 6 of Article XIII B of the California*  
32 *Constitution.*

O



STATE CAPITOL  
P.O. BOX 942849  
SACRAMENTO, CA 94249-0036  
(916) 319-2036  
FAX (916) 319-2136

DISTRICT OFFICE  
41319 12TH STREET WEST, SUITE 105  
PALMDALE, CA 93551  
(661) 267-7636  
FAX (661) 267-7736

EMAIL  
assemblymember.lackey@assembly.ca.gov

# Assembly California Legislature



**TOM LACKEY**  
ASSEMBLYMAN, THIRTY-SIXTH DISTRICT

COMMITTEES  
VICE-CHAIR: ACCOUNTABILITY AND  
ADMINISTRATIVE REVIEW  
BUDGET  
HEALTH  
PUBLIC SAFETY

SELECT COMMITTEES  
JOINT LEGISLATIVE COMMITTEE ON  
EMERGENCY MANAGEMENT

April 17, 2015

Assemblyman Rich Gordon  
Chair, Assembly Rules Committee  
State Capitol, Room 4009  
Sacramento, CA 95814

Dear Chairman Gordon,

I respectfully request to add an urgency clause to AB 46. This bill will correct a loophole left behind by the passage of Proposition 47 last November. When voters approved Prop 47, it lowered the penalty for illegal possession three drugs commonly referred to as "date rape" drugs. Working with the Assembly Public Safety committee, we were able to draft a compromise that eliminated most of the opposition to AB 46 which passed on a unanimous bipartisan vote.

The bill if enacted, would address the loophole left behind from Prop 47, by increasing the penalty for possessing these 3 drugs with intent to commit sexual assault.

I believe it is critical that this measure take effect immediately because District Attorneys around the state are currently unable to impose significant penalties on perpetrators who possess these drugs for malicious purposes.

Please let me know if I can provide more information in regards to this request. If you have any questions, please contact Tim Townsend in my office at 319-2036.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink that reads "Tom Lackey".

Tom Lackey  
Assemblyman 36<sup>th</sup> District

**ASSEMBLY BILL**

**No. 1405**

---

**Introduced by Assembly Member Grove**

February 27, 2015

---

An act to add Section 14670.09 to the Government Code, to add Section 4474.9 to the Welfare and Institutions Code, and to amend the Budget Act of 2014 (Chapter 25 of the Statutes of 2014) by amending Items 4300-003-0001 and 4300-101-0001 of Section 2.00 of that act, relating to developmental services, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1405, as introduced, Grove. Developmental centers: closure.

Existing law vests in the State Department of Developmental Services jurisdiction over state hospitals referred to as developmental centers for the provision of residential care to individuals with developmental disabilities. Existing law requires the State Department of Developmental Services to comply with procedural requirements when closing a developmental center, including submitting a detailed plan to the Legislature and holding at least one public hearing. Under existing law, the department allocates funds to private nonprofit entities known as regional centers, which are required to provide, or arrange for the provision of, services and supports for persons with developmental disabilities.

This bill would require the department to close the Fairview Developmental Center and the Sonoma Developmental Center on or before an unspecified date. The bill would create a taskforce for to determine the use of the properties and a plan for benefiting individuals with developmental disabilities in community-based programs and

settings, and would require the task force to consist of 15 members, as specified

Existing law requires the Director of General Services to lease specified property located at the Sonoma Developmental Center only for an agricultural or open-space purpose consistent with specified requirements.

The bill would additionally require the director to, on or after an unspecified date, lease all or part of the parcel at the Sonoma Developmental Center and the Fairview Developmental Center. The bill would require an unspecified percentage of the net proceeds received by the state from the lease of these properties to go to the General Fund and the rest to be deposited in the Lanterman Act Community-Based Services Fund, created by the bill. The bill would require all moneys in the Lanterman Act Community-Based Services Fund to be continuously appropriated without regard to fiscal years to the State Department of Developmental Service to augment existing purchase of services funds used by regional centers to purchase services and supports for persons with developmental disabilities. By creating a continuously appropriated fund, the bill would make an appropriation.

The Budget Act of 2014 appropriates \$260,659,000 from the General Fund to the State Department of Developmental Services for the support of the department's developmental centers, and appropriates \$2,645,629,000 from the General Fund to the department for local assistance to regional centers.

This bill would amend the Budget Act of 2014 by revising items of appropriation for the State Department of Developmental Services related to developmental centers and regional centers, thereby making an appropriation. The bill would state the intent of the Legislature to transfer current funding for the operations of the Fairview Developmental Center and the Sonoma Developmental Center to fund purchase of services at regional centers.

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: no.

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

- 1 SECTION 1. Section 14670.09 is added to the Government
- 2 Code, to read:
- 3 14670.09. (a) Notwithstanding any other law, the Director of
- 4 General Services shall, on or after \_\_\_\_\_, lease, for current market

1 value, all or part of the parcel at the Sonoma Developmental  
2 Center, located at 15000 Arnold Drive, in Eldridge, Sonoma  
3 County and the Fairview Developmental Center, located at 2501  
4 Harbor Boulevard, in Costa Mesa, Orange County.

5 (b) Notwithstanding any other law, the net proceeds received  
6 by the state from the lease of the property shall be deposited as  
7 follows:

8 (1) \_\_\_\_ percent to the General Fund.

9 (2) (A) \_\_\_\_ percent to the Lanterman Act Community-Based  
10 Services Fund, hereby created in the State Treasury.  
11 Notwithstanding Section 13340, all moneys in the fund are  
12 continuously appropriated without regard to fiscal years to the  
13 State Department of Developmental Services to augment existing  
14 purchase of services funds used by regional centers to purchase  
15 services and supports for persons with developmental disabilities

16 (B) The moneys in the Lanterman Act Community-Based  
17 Services Fund shall be used to supplement, and not supplant,  
18 existing funds for purchase of services by regional centers.

19 (3) “Net proceeds” for the purposes of this subdivision means  
20 gross proceeds less all costs necessary for the completion of the  
21 transaction, including costs incurred by the Department of General  
22 Services.

23 SEC. 2. Section 4474.9 is added to the Welfare and Institutions  
24 Code, to read:

25 4474.9. (a) The department shall close the Fairview  
26 Developmental Center and the Sonoma Developmental Center on  
27 or before \_\_\_\_.

28 (b) (1) A task force is hereby established to determine the use  
29 of the properties and a plan for benefiting individuals with  
30 developmental disabilities in community-based programs and  
31 settings.

32 (2) The task force shall consist of 15 members as follows:

33 (A) Eleven members appointed by the Governor, at least three  
34 of whom shall be family members of an individual residing at a  
35 state developmental center, at least three of whom shall be a  
36 director of a regional center, and at least three of whom shall be  
37 directors or chief executive officers of community-based nonprofit  
38 organizations that help individuals with developmental disabilities  
39 find housing employment, day programs, and other services in the  
40 community.

- 1 (B) Two members appointed by the Speaker of the Assembly.  
2 (C) Two members appointed by the President pro Tempore of  
3 the Senate.

4 SEC. 3. Item 4300-003-0001 of Section 2.00 of the Budget  
5 Act of 2014 is amended to read:

6  
7 4300-003-0001—For support of Department of Develop-  
8 mental Services, for Developmental Centers..... 260,659,000 \_\_\_\_  
9 Schedule:

10 (1) 20-Developmental Centers Program.... 511,159,000

11 \_\_\_\_\_  
12 (2) Reimbursements..... -250,116,000

13 (3) Amount payable from the Federal Trust  
14 Fund (Item 4300-003-0890)..... -384,000

15 Provisions:

16 1. A loan shall be available from the General Fund to the  
17 State Department of Developmental Services not to  
18 exceed a cumulative total of \$27,000,000. The loan  
19 funds will be transferred to this item as needed to meet  
20 cashflow needs due to delays in collecting reimburse-  
21 ments from the Health Care Deposit Fund and are  
22 subject to the repayment provisions of Section 16351  
23 of the Government Code.

24 2. Upon order of the Department of Finance, the Con-  
25 troller shall transfer such funds as are necessary be-  
26 tween this item and Item 4300-001-0001 in order to  
27 appropriately align General Fund and Medi-Cal reim-  
28 bursements from the State Department of Health Care  
29 Services with budgeted activities. Within 10 working  
30 days after approval of a transfer as authorized by this  
31 provision, the Department of Finance shall notify the  
32 chairpersons of the fiscal committees of each house  
33 of the Legislature and the Chairperson of the Joint  
34 Legislative Budget Committee of the transfer, includ-  
35 ing the amount transferred, how the amount was deter-  
36 mined, and how the amount will be utilized.

37 3. Upon order of the Department of Finance, the Con-  
38 troller shall transfer such funds as are necessary be-  
39 tween this item and Item 4300-101-0001. Within 10  
40 working days after approval of a transfer as authorized

by this provision, the Department of Finance shall notify the chairpersons of the fiscal committees in each house of the Legislature and the Chairperson of the Joint Legislative Budget Committee of the transfer, including the amount transferred, how the amount transferred was determined, and how the amount transferred will be utilized.

4. The State Department of Developmental Services (DDS) shall notify the chairperson of each fiscal committee and policy committee of each house of the Legislature of specific outcomes resulting from citations and the results of annual surveys conducted by the State Department of Public Health, as well as findings of any other governmental agency authorized to conduct investigations or surveys of state developmental centers. The DDS shall forward the notifications, including a copy of the specific findings, to the chairpersons of the committees within 10 working days of its receipt of these findings. The DDS also shall forward these findings, within three working days of submission, to the appropriate investigating agency. In addition, the DDS shall provide notification to the chairpersons of the committees, within three working days, of its receipt of information concerning any investigation initiated by the United States Department of Justice and the private nonprofit corporation designated by the Governor pursuant to Division 4.7 (commencing with Section 4900) of the Welfare and Institutions Code or concerning any findings or recommendations resulting from any of these investigations.

SEC. 4. Item 4300-101-0001 of Section 2.00 of the Budget Act of 2014 is amended to read:

4300-101-0001—For local assistance, Department of Developmental Services, for Regional Centers.....	2,645,629,000
Schedule:	
(1) 10.10.010-Operations.....	576,631,000

1	(2) 10.10.020-Pur-	
2	chase of Ser-	
3	vices.....	4,076,564,0004,076,564,000
4	(3) 10.10.060-Early Intervention Pro-	
5	gram.....	19,450,000
6	(4) 10.10.080-Prevention Program.....	2,003,000
7	(5) Reimbursements.....	-1,970,694,000
8	(6) Amount payable from the Developmen-	
9	tal Disabilities Program Development	
10	Fund (Item 4300-101-0172).....	-5,808,000
11	(7) Amount payable from the Developmen-	
12	tal Disabilities Services Account (Item	
13	4300-101-0496).....	-150,000
14	(8) Amount payable from the Federal Trust	
15	Fund (Item 4300-101-0890).....	-52,367,000
16	Provisions:	
17	1. Upon order of the Director of Finance, the Controller	
18	shall transfer such funds as are necessary between this	
19	item and Item 4300-003-0001. Within 10 working	
20	days after approval of a transfer as authorized by this	
21	provision, the Department of Finance shall notify the	
22	chairpersons of the fiscal committees in each house	
23	of the Legislature and the Chairperson of the Joint	
24	Legislative Budget Committee of the transfer, includ-	
25	ing the amount transferred, how the amount transferred	
26	was determined, and how the amount transferred will	
27	be utilized.	
28	2. A loan or loans shall be made available from the	
29	General Fund to the State Department of Developmen-	
30	tal Services not to exceed a cumulative total of	
31	\$395,000,000. The loan funds shall be transferred to	
32	this item as needed to meet cashflow needs due to de-	
33	lays in collecting reimbursements from the Health	
34	Care Deposit Fund. All moneys so transferred shall	
35	be repaid as soon as sufficient reimbursements have	
36	been collected to meet immediate cash needs and in	
37	installments as reimbursements accumulate if the loan	
38	is outstanding for more than one year.	
39	3. Notwithstanding Section 26.00, the Department of	
40	Finance may authorize transfer of expenditure author-	

ity between Schedules (1) and (2) in order to more accurately reflect expenditures in the Early Intervention Program (Part C of the Individuals with Disabilities Education Act).

4. Notwithstanding Section 26.00, the Department of Finance may authorize transfer of expenditure authority from Schedule (4) 10.10.080-Prevention Program to Schedule (2) 10.10.020-Purchase of Services to more accurately reflect expenditures in the Prevention and Early Start Programs.

SEC. 5. It is the intent of the Legislature to transfer current funding for the operations of the Fairview Developmental Center and the Sonoma Developmental Center to fund purchase of services at regional centers.

O



STATE CAPITOL  
P.O. BOX 942849  
SACRAMENTO, CA 94249-0034  
(916) 319-2034  
FAX (916) 319-2134

# Assembly California Legislature



**SHANNON GROVE**  
ASSEMBLYWOMAN, THIRTY-FOURTH DISTRICT

DISTRICT OFFICE  
4900 CALIFORNIA AVE., SUITE 100-B  
BAKERSFIELD, CA 93309  
(661) 395-2995  
FAX (661) 395-3883

April 21, 2015

Assemblymember Richard S. Gordon, Chair  
Assembly Rules Committee  
State Capitol, Room 3016  
Sacramento, CA 95814

Dear Mr. Chairman,

I respectfully request to add an urgency clause to AB 1405. The urgency language of AB 1405 is required so provisions of this bill can be applied as soon as possible to facilitate the orderly closure of the Developmental Centers at the earliest time.

The bill will require the State Department of Developmental Services to close the Fairview Developmental Center and the Sonoma Developmental Center no later than July 1, 2018. This bill is exceptionally important due to recent reports of death, abuse and neglect at these state-run centers.

Thank you for your consideration of this request. Please contact Eric Dietz in my Capitol office if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Shannon Grove", written over a circular blue stamp.

SHANNON GROVE  
Assemblymember, 34<sup>th</sup> District

**ASSEMBLY BILL**

**No. 1109**

---

**Introduced by Assembly Member Wilk**

February 27, 2015

---

An act to add Section 8910 to, and to repeal Section 22810 of, the Government Code, relating to health benefits coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 1109, as introduced, Wilk. Legislature: health benefits coverage.

Existing law, as added by Proposition 112, adopted June 5, 1990, establishes the California Citizens Compensation Commission and requires the commission to establish the annual salary and the medical, dental, insurance, and other similar benefits of state officers, including Members of the Legislature. The Public Employees' Medical and Hospital Care Act, which governs health care coverage available to public employees, specifies that a Member of the Legislature is eligible to enroll in an approved health benefit plan, as defined, pursuant to that act.

Existing law establishes the California Health Benefit Exchange (Exchange) within state government, specifies the powers and duties of the board governing the Exchange, and requires the board to facilitate the purchase of qualified health plans through the Exchange by qualified individuals and small employers by January 1, 2014.

This bill would instead provide that the only health benefit plans available to a Member of the Legislature who is elected to or serving in office on or after January 1, 2016, with respect to his or her service as a Member of the Legislature, are health benefit plans that are offered through the Exchange. The bill would require the state to reimburse the Member of the Legislature for the cost of coverage in an amount not

to exceed the amount of the state employer's contribution for coverage for a Member as of December 31, 2015.

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

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

1 SECTION 1. Section 8910 is added to the Government Code,  
2 to read:

3 8910. Notwithstanding any other law, the only health benefit  
4 plans available to a Member of the Legislature who is elected to  
5 or serving in office on or after January 1, 2016, with respect to his  
6 or her service as a Member of the Legislature, shall be health  
7 benefit plans that are offered through the California Health Benefit  
8 Exchange. The state shall reimburse the Member of the Legislature  
9 for the cost of coverage in an amount not to exceed the amount of  
10 the state employer's contribution for coverage for a Member as of  
11 December 31, 2015.

12 SEC. 2. Section 22810 of the Government Code is repealed.

13 ~~22810. A Member of the Legislature may enroll in a health~~  
14 ~~benefit plan. The contributions of the member shall be the total~~  
15 ~~cost of his or her coverage and the coverage of any family~~  
16 ~~members, less the amount contributed pursuant to Section 8901.6~~  
17 ~~by the state.~~

O

Date of Hearing: April 23, 2015

ASSEMBLY COMMITTEE ON RULES  
Richard Gordon, Chair  
AB 1109 (Wilk) – As Introduced February 27, 2015

**SUBJECT:** Legislature: health benefits coverage.

**SUMMARY:** Limits Members of the Legislature to health benefit plans available through the California Health Benefit Exchange. Specifically, **this bill:**

- 1) Requires that the only health benefit plans available to Members of the Legislature shall be health benefit plans offered through the California Health Benefit Exchange.
- 2) Requires the state to reimburse a Member for the cost of coverage in an amount not to exceed the amount of the state employer's contribution.

**EXISTING LAW:** Proposition 112 establishes the Citizens Compensation Commission (Commission) to set the salaries and medical, dental, insurance and other similar benefits of Members of the Legislature and the state's other elected officials. It also directs the Commission to consider specified criteria in establishing salaries and benefits.

**FISCAL EFFECT:** Indeterminable, should this bill pass the Rules Committee it will be referred to the Appropriations Committee for fiscal analysis.

**COMMENTS:** According to the author, "the legislature is responsible for passing the laws that govern how Covered California operates and as such, how Californian's will receive their benefits within the parameters of the ACA. There is no better way to understand how the Exchange is working than for Legislators themselves to share in the same benefits program that Californian's are required to participate in. Additionally, this could lower health care costs for Legislators depending on which plan they chose to enroll in, thereby saving the state money in both real and administrative costs."

The annual salaries and medical, dental, insurance, and other similar benefits of Members of the Legislature are determined by the California Citizens Compensation Commission pursuant to Article 3, Section 8 of the California Constitution. Consequently, changing that authority would require a constitutional amendment.

The bill would require the state to reimburse the Member for the cost of coverage in an amount not to exceed the state employer's contribution as of December 31, 2015. This provision is problematic because it does not take into account future changes to premiums or policy. This bill would lock-in contribution rates as of December 31, 2015, regardless of premium increases. Also, further clarification on the reimbursement may be necessary; it is not clear how the reimbursement process would impact administrating entities.

*Opposition:* According to Health Access California, "the Legislature is a large employer with more than 50 employees: employees of large employers are not eligible to participate in Covered California unless their employer fails to offer them coverage that is of at least 60% minimum value or that costs more than 9.5% of their income."

*Prior legislation.* AB 1246 (Nestande) failed passage in this Committee in the 2013-2014 session year.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

None on file

**Opposition**

Health Access California

**Analysis Prepared by:** Mukhtar Ali / RLS. / (916) 319-2800



C A L I F O R N I A

## BOARD OF DIRECTORS

April 15, 2015

NANCY "NAN" BRASMER  
CA Alliance for Retired Americans

ADRIENNE BAUSLEY  
CA Black Women's Health Project

KATHY HO CHIN  
Asian & Pacific Islander  
American Health Forum

LORI EASTERLING  
CA Teachers Association

STEWART FERRY  
National MS Society-  
MS California Action Network

ROMA GUY  
CA Women's Agenda

BETSY IMHOLZ  
Consumers Union

PAUL KNEPPRATH  
Planned Parenthood Affiliates of CA

HENRY "HANK" LACAYO  
Congress of CA Seniors

TED LEMPERT  
Children Now

CHRISTINA LIVINGSTON  
Alliance of Californians  
for Community Empowerment

JOSHUA PECHTHALT  
CA Federation of Teachers

WILLIE PELOTE  
AFSCME

ART PULASKI  
CA Labor Federation

EMILY RUSCH  
CALPIRG

THOMAS SAENZ  
Mexican American  
Legal Defense & Education Fund

CARY SANDERS  
CA Pan-Ethnic Health Network

REV. RICK SCHLOSSER  
CA Council of Churches

RESHMA SHAMASUNDER  
CA Immigrant Policy Center

JOAN PIRKLE SMITH  
Americans for Democratic Action

HORACE WILLIAMS  
CA Black Health Network

JON YOUNGDAHL  
SEIU State Council

The Honorable Rich Gordon, Chair  
Assembly Rules Committee  
State Capitol  
Sacramento, CA 95814

Re: AB1109 (Wilk): Oppose

Dear Assemblymember Gordon,

Health Access California, the statewide health care consumer advocacy coalition committed to quality, affordable health care for all Californians, opposes AB1109 which as introduced violates the Affordable Care Act and requires legislators to purchase health benefits with their own after-tax dollars rather than receiving coverage through their legislative employment.

AB1109 states that the only health benefit plans available to legislators will be those offered through Covered California, the California health benefits exchange. However, the Legislature is a large employer with more than 50 employees: employees of large employers are not eligible to participate in Covered California unless their employer fails to offer them coverage that is of at least 60% minimum value or that costs more than 9.5% of their income. Large employers (other than the United State Congress) are generally prohibited from using the health benefit exchanges as a source of coverage.

AB1109 does not provide for an employer contribution toward the health benefits provided to legislators. If legislators are expected to pay for health benefits out of their own pockets with after-tax dollars, that provision would be an effective pay cut for legislators as well.

Employers should provide decent benefits to their employees. That is a fundamental premise of the Affordable Care Act. Health Access supports requirements that employers provide decent health benefits to their employees, including legislators, of both parties. For that reason, we are opposed to this measure.

Sincerely,

ANTHONY WRIGHT  
Executive Director

Anthony Wright  
Executive Director

ORGANIZATION LISTED  
FOR IDENTIFICATION PURPOSES

CC: Members and staff of the Assembly Rules Committee  
Assemblymember Scott Wilk, author

[Back to Agenda](#)

SACRAMENTO: 1127 11th Street, Suite 234, Sacramento, CA 95814 PH: 916.497.0923, FAX: 916.497.0921  
OAKLAND: 1330 Broadway, Suite 811, Oakland, CA 94612 PH: 510.873.8787, FAX: 510.873.8789  
LOS ANGELES: 1930 Wilshire Blvd., Suite 916, Los Angeles, CA 90057 PH: 213.413.3587, FAX: 213.413.8631