



San Mateo County Chamber of Commerce Alliance

May 2014 Legislative Report

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Legislative Report

- **AB 1634 (Skinner – D) Occupational Safety and Health: Violations**
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- **Proposition 42: Public Information. Open Meetings. State Reimbursement to Local Agencies.**

Legislative Report

AB 1634 (Skinner – D) Occupational Safety and Health: Violations

Summary

1. AB 1634 deals with an employer's obligation to abate a violation pending an employer's appeal to the Occupational Safety and Health Appeals Board (OSHAB).

Background

2. Under current law, DOSH may issue a citation or notice of proposed penalty to an employer if it determines that the employer has violated existing law.
3. The citation is required to be in writing and describe with particularity the nature of the violation.
4. The citation is also required to fix a reasonable time for the abatement of the alleged violation. An employer may appeal the citation by filing an appeal with the OSHAB within 15 days of the receipt of the citation. However, there is generally no obligation for an employer to abate the alleged violation while the appeal is pending.
5. Current law establishes the Division of Occupational Safety and Health in the Department of Industrial Relations to enforce employment safety laws.
6. It also authorizes the division to conduct hearings, inspections, and investigations regarding alleged violations of employment safety laws and to issue a citation for a violation of those laws, including violations that regulations adopted by the division classify as serious, repeat, or willful violations.
7. Furthermore, it establishes the Occupational Safety and Health Appeals Board in the department, and prescribes procedures for the appeals board to hear and decide appeals of a citation.
8. In recent years, worker advocates and other stakeholders have raise concern that, since an employer appeal of a citation may not be heard and ruled upon for months (or even years), this can lead to workplaces remaining dangerous months after an inspector has ruled that it is unsafe.
9. Regulations adopted by the appeals board generally stay the abatement period of a citation until the conclusion of the appeal.
10. A similar version of AB 1634 that Assembly Member Skinner carried in 2013 (AB 1165) was vetoed last year by Governor Brown.
11. AB 1634 is currently in the Assembly Committee on Appropriations.

Arguments in Support

12. According to the author, AB 1634 ensures that unsafe conditions in the workplace get corrected in a timely manner and puts employee safety first. Existing law empowers DOSH to cite an employer if, upon inspection, DOSH believes that the employer has violated safety laws, or regulations.
13. DOSH citations include an order to fix ("abate") the hazardous conditions and a deadline to abate. An employer may appeal citations from DOSH. During the appeal, existing law stays all abatement until the appeal is resolved.
14. The author contends that, in practice, many employers use the appeals process to delay abatement. Appeals can last for months or years after the original citation is issued. Therefore, this bill requires an employer to abate the most serious workplace hazards, as required by DOSH, even during an employer's appeal.

Arguments in Opposition

15. Opponents, including the California Chamber of Commerce, oppose this bill and argue that it proposes a costly double-appeal process that presumes guilt for employers, undermines due process with regards to citations for workplace safety violations and is unnecessary in light of recently adopted regulations for an expedited appeals process for these situations.

16. Opponents contend that this bill requires employers to abate safety hazards for which they have been cited prior to resolution of the appeal. In other words, while the employer exercises its right to contest the existence of an alleged violation, DOSH could order the employer to fix the alleged volatile condition before the Appeals Board has determined whether a violation even exists.
17. They argue that the requirements for abatement are already grounds for appealing a citation issued by DOSH. Moreover, DOSH has authority to issue an Order Prohibiting Use where it concludes a condition, process or piece of machinery poses an imminent hazard to employee safety. Requiring employers to specifically contest abatement where it would otherwise be stayed creates two separate appeals where currently there is one. The creation of a new ground for appeal concerning abatement is not needed and will place an unnecessary burden on DOSH, employers, and other parties.

Supporting

California Labor Federation, AFL-CIO
 State Building and Construction Trades Council of California (sponsor)

Opposing

Air Conditioning Trade Association
 Associated Builders and Contractors of California
 Associated General Contractors of California
 Associated Roofing Contractors of the Bay Area Counties, Inc.
 Brawley Chamber of Commerce
 Brea Chamber of Commerce
 California Association of Winegrape Growers
 California Automotive Business Coalition
 California Chamber of Commerce
 California Chapter of American Fence Association
 California Construction & Industrial Materials Association
 California Farm Bureau Federation
 California Fence Contractors' Association
 California Framing Contractors Association
 California Grocers Association
 California League of Food Processors
 California Manufacturers and Technology Association
 California Professional Association of Specialty Contractors
 California Restaurant Association
 California Retailers Association
 Chambers of Commerce Alliance of Ventura and Santa Barbara
 Desert Hot Springs Chamber of Commerce and Visitors Center
 El Centro Chamber of Commerce
 Engineering Contractors' Association
 Flasher Barricade Association
 Fullerton Chamber of Commerce

Greater Bakersfield Chamber of Commerce
 Lake Tahoe South Shore Chamber of Commerce
 Marin Builders Association
 National Federation of Independent Business
 Oxnard Chamber of Commerce
 Palm Desert Area Chamber of Commerce
 Plumbing-Heating-Cooling Contractors Association of California
 Porterville Chamber of Commerce
 Redondo Beach Chamber of Commerce
 Residential Contractors Association
 San Diego East County Chamber of Commerce
 San Fernando Valley Chamber of Commerce
 San Jose Chamber of Commerce
 Santa Barbara Chamber of Commerce
 Santa Clara Chamber of Commerce and Convention-Visitors Bureau
 Simi Valley Chamber of Commerce
 Southwest California Advocacy Associates
 Southwest California Legislative Council
 Turlock Chamber of Commerce
 Valley Industry and Commerce Association
 Visalia Chamber of Commerce
 Walter & Prince LLP
 Western Electrical Contractors Association
 Western Growers Association
 Western States Petroleum Association
 Western Steel Council
 Wine Institute

Summary

1. AB 2618 would require a management district plan to include, the name of the proposed district, a description of the boundaries of the district, and the total annual amount proposed to be expended for improvements, maintenance and operations, and debt service in each year of operation of the district.

Background

2. AB 2618 would also require a district that is property-based to include the proportionate special benefit derived by each individual parcel, the sum of all benefits to be provided to the properties located within the district.
3. Ultimately, AB 2618 amends the existing Property and Business Improvement District Law to ensure it conforms to the requirements of Article XIII D of the California Constitution.
4. Specifically, AB 2618 will amend the existing PBID provisions to:
 - a. Reflect the restrictions on property-based assessments arising from Article XIII D.
 - b. Clarify the definition of “special” versus “general” benefits.
 - c. Codify the methodology used to quantify “special” benefits in accordance with the guidance provided by the Court of Appeals decision in *Dahms v. Downtown Pomona Property and Business Improvement District*. (This decision reinforces the notion that “special” benefits provided to assessment-payers in a district may also provide secondary collateral benefits to others without diminishing the value of the “special” benefits provided to the intended beneficiaries.)
5. Current law states: PBID laws were originally established in 1994 by AB 3574 (Caldera).
6. The 1994 law authorized PBIDs for the purpose of levying benefit assessments on owners of property within the district to fund certain improvements and activities that provide special benefits to assessment-payers within the districts.
7. Property owners determine the level of services and improvements necessary to fit the needs of the commercial area.
8. A PBID may provide services such as: enhanced security services, enhanced maintenance services, marketing of the area and event production, small business training, parking management, and business recruitment and retention.
9. Property owners determine the boundaries of the PBID and how much they are willing to spend to provide the services in the district. PBID’s provide supplemental services, over and above those provided by the city.
10. PBIDs have played an essential role in revitalizing downtowns and other commercial areas statewide by making blighted areas clean and safe; creating thousands of jobs; and spurring millions of dollars in tax revenues.
11. Long Beach PBIDs include downtown long beach; uptown long beach (north Long Beach); and the east Anaheim street area to highlight a few.
12. AB 2618 is currently in the Assembly to third reading.

Arguments in Support

13. According to the author’s office, AB 2618 is needed to clarify current law or PBIDs will remain subject to litigation challenges and the entire state may be subject to future court decisions that severely impede – or even eliminate – PBIDs.
14. Supporters argue the because PBID Law does not address the distinction between special and general benefits, Article XIII D resulted in statewide confusion about district formation, levying of assessments, and the permissible functions of PBIDs.
15. Consequently, ongoing litigation arising from this lack of clarity threatens the viability of all California's PBIDs and the employment, safety, cleanliness, and economic development they create. This bill will amend the existing PBID Law and ensure that it conforms to the requirements of Proposition 218.

Arguments in Opposition

16. None on file at this time.

Supporting

Central City Association of Los Angeles [SPONSOR]
Avison Young
California State Association of Counties
Central City Association
Central City East Association
Central Hollywood Coalition
Chrysalis
City of San Diego
Downtown Center Business Improvement District
Downtown Industrial District Business Improvement District
Downtown Long Beach Associates
Downtown Sacramento Partnership
Downtown San Diego Partnership
Gateway to L.A. BID
Historic Core Business Improvement District
Hollywood Chamber of Commerce
Hollywood Property Owners Alliance
Hollywood United Methodist Church
LA Fashion District Business Improvement District
Larchmont Village BID
Los Angeles Area Chamber of Commerce
Mack Road Partnership
Midtown Business Association
Oak Park Business Associations
Old Pasadena Management District
Power Inn Alliance
S. Carol Massie, Inc. dba McDonalds Hollywood
San Diego Regional Chamber of Commerce
San Pedro Property Owners Alliance
South Park Business Improvement District
Studio City Improvement Association
Sunset and Vine BID
Paramount Contractors & Developers, Inc.
The Chamber Long Beach Area Chamber of Commerce
The River District PBID
The Stockton Blvd Partnership
Union Square Business Improvement District
Uptown Property and Community Association
Wilshire Center Business Improvement Corporation

Opposing

None on file at this time.

Ballot Measures: California Statewide Direct Primary Election – June 3, 2014 – FINAL

Proposition 41: Veterans Housing and Homeless Prevention Bond Act of 2014

Summary

1. A **YES** vote on this measure means: The state would sell \$600 million in general obligation bonds to fund affordable multifamily housing for low-income and homeless veterans.
2. A **NO** vote on this measure means: The state would not sell \$600 million in general obligation bonds to fund affordable multifamily housing for low-income and homeless veteran

Background

3. Proposition 41 is a legislatively referred bond act and was passed as AB 639 (2013) by the legislature.
4. According to the Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact: Proposition 41, if passed, would increase the state bond repayment costs averaging about \$50 million annually over 15 years.

State Housing Programs.

5. In most years, about 150,000 houses and apartments are built in California. Most of these housing units are built entirely with private dollars. Some, however, receive financial help from federal, state, or local governments.
6. For example, the state provides local governments, nonprofits, and private developers with low-cost loans to fund a portion of the housing units' construction costs. Typically, housing built with these funds must be sold or rented to Californians with low incomes.
7. A portion of housing units built with state funds is set aside for homeless Californians. These include homeless shelters, short-term housing, and supportive housing. Supportive housing combines housing with certain services, including mental and physical health care, drug and alcohol abuse counseling, and job training programs. A January 2013 federal government survey identified 137,000 homeless Californians, including about 15,000 veterans.
8. California veterans are more than twice as likely to be homeless than non-veterans.

Veterans' Home Loan Program.

9. The state and federal governments provide home loan assistance to some of the 1.9 million veterans living in California. Under the *state* program, the state sells general obligation bonds to investors and uses the funds to buy homes on behalf of eligible veterans.
10. Each participating veteran then makes monthly payments to the state, which allows the state to repay the investors. These payments have always covered the amount owed on the bonds, meaning the program has operated at no direct cost to taxpayers.
11. Since 2000, the number of veterans receiving new home loans under this program each year has declined significantly. Many factors have contributed to this decline, including: (1) historically low mortgage interest rates, (2) the availability of federal home loan assistance, and (3) the recent housing crisis.
12. When the Legislature placed this measure on the ballot, it also reduced the amount of bonds that could be used for the veterans' home loan program by \$600 million. As a result, about \$500 million of state bonds remain available for veterans home loans.

Proposition 41

New General Obligation Bonds for Veterans' Housing.

13. This measure allows the state to sell \$600 million in new general obligation bonds to fund affordable multifamily housing for low-income veterans. The general obligation bonds authorized by this measure would be repaid using state tax revenue, meaning that taxpayers would pay for the new program.

Housing for Low-Income Veterans.

- 14. This measure funds construction, renovation, and acquisition of affordable multifamily housing, such as apartment complexes. The state would do this by providing local governments, nonprofit organizations, and private developers with financial assistance, such as low-interest loans, to fund part of a project’s costs. Housing built with these funds would be rented to low-income veterans (and their families)—that is, those who earn less than 80 percent of average family income, as adjusted by family size and county.
- 15. For example, the average statewide amount for a single person to be considered low-income for this program is about \$38,000. State law requires these units to be affordable, meaning rent payments made by veterans cannot exceed 30 percent of the income limit for the program.

Housing for Homeless Veterans.

- 16. State law gives funding priority in this program to projects that would house homeless veterans and veterans who are at risk of becoming homeless. In particular, at least one-half of the funds would be used to construct housing for extremely low-income veterans.
- 17. These veterans earn less than 30 percent of the amount earned by the average family in the county where they live. (The average statewide amount for a single person to be considered extremely low-income is about \$14,000.) A portion of the funding for extremely low-income veterans would be used to build supportive housing for homeless veterans.
- 18. Other Provisions: Under this measure, the Legislature could make changes in the future to improve the program and the state could use up to \$30 million of the bond funds to cover the costs of administering the program.
- 19. In addition, the state would be required to publish an annual evaluation of the program.

Arguments in Support

- 20. Proponents of Proposition 41 state: the Veterans Housing and Homeless Prevention Act of 2014, redirects \$600 million of previously approved, unspent bond funds to construct and rehabilitate housing for California’s large population of homeless veterans. This Act will construct affordable, supportive, and transitional housing for homeless and near homeless veterans without raising taxes.

Arguments in Opposition

- 21. Opponents of Proposition 41 state: Proposition 41 would authorize the State to borrow (by selling bonds) \$600 million out of \$900 million in bonds previously approved by voters in 2008 for use by the CalVet Home and Farm Loan Program. The issue is whether such a diversion of funds is wise.

Supporting
(partial list)

Individuals

- Governor Jerry Brown
- Assembly Member Brian Maienschein
- Assembly Member John Pérez
- Assembly Member Toni Atkins
- State Senator Ben Hueso
- State Senator Mark Wyland
- State Senator Marty Block

Organizations

- American Legion
- AMVETS
- California Association of Veteran Service Agencies
- California Coalition for Rural Housing
- California Department of the Military Order of the Purple Heart
- California Housing Partnership Corporation

California State Sheriffs' Association
Corporation for Supportive Housing
County Alcohol and Drug Program Administrators' Association of California
First Place for Youth
Housing California
Kings County Veterans Services
Los Angeles Times
Military Officers Association of America
Non-Profit Housing Association of Northern California
Reserve Officer's Association
Southern California Association of Non-Profit Housing (SCANPH)
St. Anthony Foundation
Swords to Plowshares
The McClatchy Company (Fresno Bee and The Sacramento Bee)
U.S. Vets
Urban Counties Caucus
Veteran Resource Centers of America
Veterans of Foreign Wars
Veterans Village of San Diego
Vietnam Veterans of California

Opposing

None at this time.

Proposition 42: Public Information. Open Meetings. State Reimbursement to Local Agencies.

Summary

1. A **YES** vote on this measure means: The state would not be required to pay local governments for costs to follow state laws that give the public access to local government information.
2. A **NO** vote on this measure means: The state would still be required to pay local governments for certain costs of providing public access to local government information.

Background

3. Proposition 42 is a legislatively referred constitutional amendment (SCA 3, 2013) and placed on the June 3 statewide primary ballot by the legislature.
4. According to the Legislative Analyst's Office (LAO) the estimate of net State and Local Government fiscal impacts if Proposition 42 were to pass would include fiscal savings to the State government; however, would most likely result in revenue reductions to local governments.
5. These reductions in state payments to local governments would be in the tens of millions of dollars annually. Also potential future costs on local governments would then be in the tens of millions of dollars annually.
6. **California Has Thousands of Local Governments.**
 - a. Californians receive services from thousands of local governments—counties, cities, school and community college districts, and special districts (such as fire districts, flood control districts, and water districts). Each local government has a local governing body (such as a city council or county board of supervisors) that makes decisions about its programs, services, and operations.
7. **Public Access to Local Government Information.**
 - a. The State Constitution requires that meetings of governing bodies and writings of public officials and agencies be open to public scrutiny. Two state laws establish rules local governments must follow to provide public access to local government information and meetings.
8. California Public Records Act. This law allows every person to inspect and obtain copies of state and local government documents. It requires state agencies and local governments to establish written guidelines for public access to documents and to post these guidelines at their offices.
9. Ralph M. Brown Act. This law governs meetings of the governing bodies of local governments. It requires local governing bodies to provide public notice of agenda items and to hold meetings in an open forum.
10. **State Payments for Public Records and Brown Act Costs.**
 - a. Over the years, the Legislature has modified the Public Records Act and Brown Act from time to time.
 - b. Some of these changes have increased local government responsibilities and costs.
 - c. The state generally must pay local governments for their costs when it increases their responsibilities—a requirement that state officials consider when reviewing proposals that increase local government costs.
 - d. Under current law, the state must pay local governments for their costs to implement certain parts of the Public Records Act (such as the requirement to assist members of the public seeking records and to tell individuals seeking records whether the records can be provided).
 - e. The amount of money the state owes local governments for their Public Records Act costs is not known yet, but is estimated to be in the tens of millions of dollars annually.
11. In addition, the state previously has paid local governments for their costs resulting from certain parts of the Brown Act. However, California voters amended the State Constitution in 2012 to eliminate the state's responsibility to pay local governments for these Brown Act costs.

12. Proposition 42 would add to the State Constitution the requirement that local governments follow the Public Records Act and the Brown Act.
13. Furthermore, the measure would eliminate the state’s responsibility to pay local governments for their costs related to these laws. (As noted above, state responsibility to pay for local Brown Act costs was eliminated in 2012.)
14. The measure applies to the current requirements of these laws, as well as any future changes to either law that are made to improve public access to government information or meetings.

Arguments in Support

15. Per the California State Voter’s Guide: Proposition 42 will clarify that local government agencies and not the state are responsible for the costs associated with their compliance with our access laws. It will ensure access to public records and meetings that are essential to expose and fight public corruption, like that experienced by the citizens of the City of Bell when public officials engaged in criminal acts and sacked the city’s coffers.
16. Proposition 42 will cement in the Constitution the public’s civil right to know what the government is doing and how it is doing it. It will add independent force to the state’s laws that require local governments to comply with open meeting and public record laws and future changes to those laws made by the Legislature.

Arguments in Opposition

17. Per the California State Voter’s Guide: Proposition 42 would amend the California Constitution to clarify that the State need not pay a local government for the cost of complying with the open meeting law applicable to local governments (the Brown Act—Government Code sections 54950–54963) or with the Public Records Act (Government Code sections 6250–6270) as written or later changed—as long as any change “contains findings demonstrating that the statutory enactment further the purposes of” the constitutional guarantee of public access and input.
18. The main issue presented by this proposition is whether voters believe that the cost of complying with these important state laws should be borne by local governments or by the state government.

Supporting *(Partial list)*

Individuals

Governor Jerry Brown
State Assembly Member Dan Logue
State Senator Cathleen Galgiani
State Senator Darrell Steinberg
State Senator Lois Wolk
State Senator Mark Leno (original author of SCA 3)

Organizations

California Common Cause
California Democratic Party
California Labor Federation
California Newspaper Publishers Association
California Republican Party
Californians Aware
First Amendment Coalition
League of Women Voters of California
Pacific Media Workers Guild, CWA Local 39521

Opposing *(partial list)*

Rural County Representatives of California