

IN THE SUPREME COURT  
OF THE STATE OF CALIFORNIA

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LES JANKEY  
Plaintiff-Appellant,

v.

SONG KOO LEE, Individually and dba K&D MARKET,  
Defendant-Respondent.

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RESPONDENT'S MOTION TO TAKE JUDICIAL NOTICE; MEMORANDUM OF  
POINTS AND AUTHORITIES; DECLARATIONS OF JASON G. GONG AND JAN S.  
RAYMOND AND SUPPORTING EXHIBITS; [PROPOSED] ORDER

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Re: Decision of the Court of Appeal  
First Appellate District, Division Four  
Case No. A123006

On Appeal from the Superior Court for San Francisco County  
Case No. CGC07-463040  
Honorable Patrick J. Mahoney, Judge

---

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and dba K&D MARKET

Case No. S180890

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OF THE STATE OF CALIFORNIA

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**MOTION TO TAKE JUDICIAL NOTICE**

Pursuant to California Evidence Code Sections 452 and 459 and Rule 8.252 of the California Rules of Court, defendant-respondent Song Koo Lee, individually and dba K&D Market (“defendant”), hereby requests that the Court take judicial notice of Exhibits A through M attached to the declaration of Jason G. Gong.

This motion is based upon the attached memorandum of points and authorities, the attached declarations of Jason G. Gong and Jan S. Raymond, the accompanying exhibits, the concurrently-filed Answer Brief on the Merits, and the record on appeal.

Dated: September 8, 2010

LIVINGSTON LAW FIRM

By: \_\_\_\_\_



Jason G. Gong  
Attorneys for Defendant-Respondent  
SONG KOO LEE, Individually and dba  
K&D MARKET

## MEMORANDUM OF POINTS AND AUTHORITIES

### I. INTRODUCTION

In his Opening Brief on the Merits (“POB”), plaintiff-appellant Les Jankey (“plaintiff”) relies on certain isolated excerpts from the legislative history of Civil Code Section 55<sup>1</sup> in an effort to show that the Legislature was concerned only with fee awards to prevailing *plaintiffs*, not prevailing *defendants*. See POB at 16-19. As defendant explains in his Answer Brief on the Merits, consideration of the legislative history of Section 55 is inappropriate here because the language of the statute clearly and unambiguously mandates that the *prevailing party* (regardless of whether that party is the plaintiff or the defendant) “*shall* be entitled to recover reasonable attorney’s fees.” See Section 55 (emphasis added).

Nevertheless, if this Court determines that it should consider the legislative history of Section 55, defendant requests that the Court take judicial notice of certain excerpts of the legislative history that reinforce and establishes that defendant’s interpretation is correct. The legislative history to be noticed was not presented to the trial court or the Court of Appeal and does not relate to proceedings occurring after the underlying judgment in favor of defendant was entered in this case. Defendant presents the matter to this Court because plaintiff’s opening brief on the merits relies on excerpts from the legislative history of Section 55. See POB at 16-19.

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<sup>1</sup> All further statutory references to Section 55 are to the California Civil Code.

## II. LEGAL DISCUSSION

Section 452(c) of the Evidence Code provides that a trial court may take judicial notice of “[o]fficial acts of the legislative, executive, and judicial departments of the United States and of any state of the United States.” *See also People v. Snyder* (2000) 22 Cal.4th 304, 309, fn. 5; *Delaney v. Baker* (1999) 20 Cal.4th 23, 30 & fn. 3. Evidence Code Section 459 grants appellate courts the same right and authority to take judicial notice as the trial courts. *See Smith v. Rae-Venter Law Group* (2002) 29 Cal.4th 345, 359 & fn. 7; *People v. Connor* (2004) 115 Cal.App.4th 669, 681 & fn. 3. Thus, “[i]n an effort to discern legislative intent, an appellate court may take judicial notice of the various legislative materials, including committee reports, underlying the enactment of a statute.” *Hale v. Southern Cal. IPA Medical Group, Inc.* (2001) 86 Cal.App.4th 919, 927.

Here, defendant requests that the Court take judicial notice of certain documents from the legislative history of Section 55 (enacted by Chapter 1443, Statutes of 1974), including documents related to Assembly Bill No. 1547 (a defeated predecessor bill on which plaintiff relies) and Assembly Bill 2471 (the bill that was passed that was passed by the Senate that became Section 55). These documents, which are attached to the declaration of Jason G. Gong as **Exhibits A through M**, were obtained from Jan S. Raymond of Legislative History & Intent. Mr. Raymond has over 20 years experience in legislative research and analysis of legislative intent. *See Declaration of Jan S. Raymond* at page 1, ¶ 1 (attached to Legislative History materials for Section 55). The documents are as follows:

**Exhibit A:** Assembly Bill No. 1547, Introduced by Assemblyman Sieroty (March 15, 1972) and referred to the Committee on Judiciary (also found at pages 3-4 of complete report attached to Raymond declaration).

**Exhibit B:** Bill Analysis for AB 1547, State Department of General Services (May 5, 1972) (also found at page 7 of complete report attached to Raymond declaration).

**Exhibit C:** Letter of Opposition and Analysis from Department of California Highway Patrol (June 8, 1972), from the bill file of Assemblyman Sieroty (also found at pages 14-16 of the complete report attached to Raymond declaration).

**Exhibit D:** Assembly Bill No. 1547 (as amended and reintroduced) by Assemblyman Sieroty (June 19, 1972) (also found at pages 17-18 of the complete report attached to Raymond declaration).

**Exhibit E:** Journal of Assembly (Volume 1), 1972 Regular Session. (Also found at pages 45-54 of complete report attached to Raymond declaration.)

**Exhibit F:** Assembly Bill No. 2471, Introduced by Assemblyman Sieroty (May 15, 1973) and referred to the Committee on Judiciary (also found at pages 57-58 of the complete report attached to Raymond declaration).

**Exhibit G:** Letter of Opposition from North Coast Builders Exchange to Assemblyman Sieroty (July 5, 1973), from the bill file of the Assembly Committee on Judiciary (also found at page 60 of the complete report attached to Raymond declaration).

**Exhibit H:** Letter of Opposition from City of Pacific Grove to Senator Alfred H. Song, Chairman, Senate Committee on Judiciary (March 11, 1974), from the bill file of

the Senate Committee on Judiciary (also found at page 63 of the complete report attached to Raymond declaration).

**Exhibit I:** Letter of Opposition from City of Pacifica to Senator Song (March 18, 1974), from the bill file of the Senate Committee on Judiciary (also found at page 64 of the complete report attached to Raymond declaration).

**Exhibit J:** Assembly Bill No. 2471 (as amended in Senate on April 22, 1974) (emphasis added) (also found at pages 65-66 of the complete report attached to Raymond declaration).

**Exhibit K:** Senate Committee on Judiciary Background Information Sheet and accompanying analysis provided for AB 2471 (as amended, April 22, 1974), from the bill file of the Senate Judiciary Committee (also found at pages 67-69 of the complete report attached to Raymond declaration).

**Exhibit L:** Sieroty letter to Governor Reagan (August 30, 1974) requesting Governor to sign Assembly Bill 2471 (as amended, August 8, 1974) (also found at page 79 of the complete report attached to Raymond declaration).

**Exhibit M:** Enrolled Bill Report, Department of Rehabilitation (September 4, 1974) (also found at page 85 of the complete report attached to Raymond declaration).

The types of legislative documents of which defendant seeks judicial notice are routinely considered by appellate courts when evaluating the background and purpose of specific bills and statutes. *See, e.g., Doe v. City of Los Angeles* (2007) 42 Cal.4th 531, 544, fn. 4, 548 (taking judicial notice of legislative history including Assembly

Committee on Judiciary report); *Eisner v. Uveges* (2004) 34 Cal.4th 915, 934 & fn. 19 (approving of judicial notice of enrolled bill reports to determine legislative intent); *Lantzy v. Centex Homes* (2003) 31 Cal.4th 363, 377 (citing various legislative materials, including legislative author letter to governor and enrolled bill memorandum); *Mercy Hospital & Medical Ctr. v. Farmers Ins. Group of Companies* (1997) 15 Cal.4th 213, 222 (citing various legislative materials, including legislative author letter to governor); *In re Raymond E.* (2002) 97 Cal.App.4th 613, 617, fn. 27 (taking judicial notice of various bill analyses, including Senate Judicial Committee analysis); *Quarterman v. Kefauver* (1997) 55 Cal.App.4th 1366, 1373, (reviewing amendments to language of bill and noting that “[t]he evolution of legislation from its introduction to its final form may provide some insight into the underlying legislative intent . . . Statements by the sponsor of legislation may be instructive . . . as are legislative committee reports on the proposed legislation”); *People v. Superior Court (Memorial Medical Center)* (1991) 234 Cal.App.3d 363, 380-381 (relying upon documents contained in a legislative committee file); *Wiley v. Southern Pacific Trans. Co.* (1990) 220 Cal.App.3d 177, 192 fn. 8 (relying on amended versions of a bill).

Here, as defendant has explained in his Answer Brief on the Merits, the cited legislative materials are relevant to show that the Legislature intended that both prevailing plaintiffs and prevailing defendants can recover their attorney fees in an action under the statute.

The appellate courts are split on whether a party requesting judicial notice of selected legislative materials should submit the entire legislative history, or only the



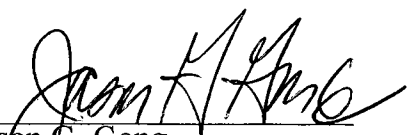
materials actually cited in the requesting party's brief. Compare *Kaufman & Broad Communities, Inc. v. Performance Plastering, Inc.* (2005) 133 Cal.App.4th 26, 29 (stating practice of submitting entire legislative history "must stop") with *People v. Valenzuela* (2001) 92 Cal.App.4th 768, 776, fn. 4 ("The entire legislative history should have been submitted to us."); *Drouet v. Superior Court* (2003) 31 Cal.4th 583, 598 (criticizing reliance on "isolated fragments" of legislative history). In light of this split in authority, defendant seeks judicial notice of only the documents cited in the Answer Brief and identified above as "Exhibits A through M." However, to provide this Court with appropriate context of the specific documents for which judicial notice is sought, defendant has attached the declaration of Jan S. Raymond and the entire set of legislative history documents received from Legislative History & Intent with regarding Section 55 for the Court's reference.

### III. CONCLUSION

For the foregoing reasons, defendant respectfully requests that this Court take judicial notice of Exhibits A through M, which is attached to the declaration of Jason G. Gong.

Dated: September 8, 2010

LIVINGSTON LAW FIRM

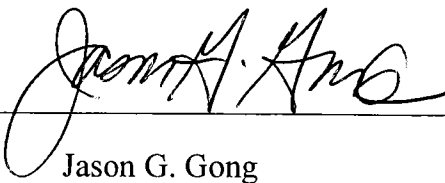
By:   
Jason G. Gong  
Attorneys for Defendant-Respondent  
SONG KOO LEE, Individually and dba  
K&D MARKET

**DECLARATION OF JASON G. GONG**

I, Jason G. Gong, declare as follows:

1. I am an attorney duly licensed to practice law in the State of California and an attorney with the Livingston Law Firm, counsel of record for defendant and respondent on this appeal.
2. Attached to defendant's Request for Judicial Notice and identified as "Exhibits A through M" are true and correct copies of documents that our firm obtained from Jan S. Raymond of Legislative History & Intent.
3. For the convenience of the Court in understanding the context of the specific documents for which judicial notice is sought, I am attaching the declaration of Jan S. Raymond along with the entire set of documents that we received from Legislative History & Intent regarding Section 55 of the California Civil Code.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on September 8, 2010 at Walnut Creek, California under penalty of perjury under the laws of the State of California.

  
\_\_\_\_\_  
Jason G. Gong

**[PROPOSED] ORDER**

IT IS HEREBY ORDERED that, pursuant to the pertinent provisions of Evidence Code Sections 452 and 459 and Rule 8.252 of the California Rules of Court, judicial notice is hereby taken of Exhibits A through M attached to the Request for Judicial Notice submitted by defendant and respondent Song Koo Lee.

DATED: \_\_\_\_\_

FOR THE COURT,  
  
\_\_\_\_\_



ASSEMBLY BILL

No. 1547

Introduced by Assemblyman Sieroty

March 15, 1972

REFERRED TO COMMITTEE ON JUDICIARY

*An act to add Section 55 to the Civil Code, relating to disabled persons.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1547, as introduced, Sieroty (Jud.). Disabled persons.

Provides procedure for obtaining injunction against further construction or operation of a public or private facility not conforming to building requirements with respect to blind or disabled persons.

Vote—Majority; Appropriation—No; Fiscal Committee—No.

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

1 SECTION 1. Section 55 is added to the Civil Code, to  
2 read:

3 55. (a) Notwithstanding any other provision of law, a  
4 blind or other physically disabled person may give notice  
5 to the owner of any private facility, or, in the case of a  
6 public facility, to the person designated in Section 4453 of  
7 the Government Code or in Section 19958 of the Health  
8 and Safety Code, that such facility contains unauthorized  
9 deviations from the requirements of Sections 54 and 54.1,  
10 Section 4451 of the Government Code, or Section 19955  
11 or 19955.5 of the Health and Safety Code.

12 (b) If such deviation is not rectified within 90 days of

1 such notice, a blind or other physically disabled person  
2 may bring an action for an injunction against further  
3 construction or operation of the nonconforming facility  
4 until the deviation is corrected. Such blind or physically  
5 disabled person shall not be required to post a bond  
6 pursuant to Section 529 of the Code of Civil Procedure,  
7 and, if successful in obtaining an injunction, shall be  
8 awarded reasonable attorney's fees and court costs,  
9 irregardless of whether the facility in question is public  
10 or private in character.

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## BILL ANALYSIS

DEPARTMENT GENERAL SERVICES	AUTHOR ASSEMBLYMAN SIEROTY	BILL NUMBER AB 1547
SPONSORED BY UNKNOWN	RELATED BILLS UNKNOWN	FORM LAST AMENDED ORIGINAL

## BILL SUMMARY

## Specific Findings:

Assembly Bill No. 1547 provides procedures for obtaining an injunction against further construction or operation of a private or public facility not conforming to building requirements in respect to the Physically Handicapped Law.

Assembly Bill No. 1547 would allow a blind or physically disabled person to obtain an injunction against construction or operation of a facility without being required to post a bond for the purposes of reimbursing the owner for monies lost as a result of such action. The bill would also award reasonable attorney fees and court costs to the person initiating the action.

We are concerned that the bill could result in unreasonable actions being taken against the owner of a building or facility. A handicapped person could initiate action against the owner of a building or facility without posting a bond to protect the owner against excessive losses of revenue. If enacted Assembly Bill No. 1547 could result in unreasonable actions being initiated.

## Financial Analysis:

The bill would have no fiscal impact upon the Department of General Services is indeterminate however, if a number of legal actions were filed against the state it could be substantial.

(DATE: 5/4/72.)

## OFFICIAL POSITION:





DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

P.O. BOX 878  
SACRAMENTO, CALIFORNIA 95804



June 8, 1972

File No.: 1.3674.A2035

Honorable Alan Sieroty  
The California Assembly  
State Capitol Building  
Sacramento, California 95814

Dear Mr. Sieroty:

The California Highway Patrol has adopted an "oppose" position on your bill, AB 1547. The attached analysis reflects the particular points of concern to this Department.

Sincerely,

A handwritten signature in cursive script, appearing to read "H. W. Sullivan".

H. W. SULLIVAN  
Commissioner

Attachment

## BILL SUMMARY

Provides procedure for obtaining injunction against further construction or operation of a public or private facility not conforming to building requirements with respect to blind or disabled persons.

## ANALYSIS

### A. Specific Findings:

This bill, as presently written, will permit any handicapped person (blind, paraplegic, amputee) to obtain an injunction against the owners of a private facility or public facility that does not fully comply to the building requirements with respect to special equipment or facilities for blind or disabled persons. The injunction could stop construction of a new facility or the operation of an existing facility. The bill provides that a blind or physically disabled person may give notice to the owners of the facility that a deviation exists to the several codes covering these matters and if the deviation is not rectified within 90 days an injunction can be sought. Such person is not required to place a bond and, if successful in obtaining the injunction, he could be awarded reasonable attorney fees and court costs irregardless of whether the facility is a public or private development.

The provisions of this bill have some merit in improving conditions in new construction for blind or disabled persons. However, it could result in a number of nuisance-type complaints and/or injunctions against the Department in the case of our State-owned facilities or our lessors in the case of leased facilities. The bill not only includes those facilities under construction, but the existing facilities. A typical case that may cause a problem would be the current requirement for a ramp into each publically owned and/or operated facility for use of wheelchair confined persons. All of our new facilities do have these ramps, however, approximately 80 percent of our facilities do not. Under this bill, the State and/or our lessors could be required to make expensive modifications to install ramps.

We believe that if these control procedures are necessary, that they should be incorporated into the administrative controls of an existing Department such as Human Resources Development or Department of Rehabilitation. Complainants should be required to file their complaints with an established department or function who would then process them, investigate the complaints, negotiate corrective solutions or alternatives and generally seek solutions to the problems without the immediate threat of injunctions, although these could be a last resort corrective action.

Due to the fact that the provisions of this bill encompass all State facilities and buildings, we will defer active opposition to the measure to the Department of General Services or the Department of Finance.

**B. Fiscal Analysis:**

We are unable to determine the resultant expense to the Department if this bill were passed. It is believed it could be quite large.



AMENDED IN ASSEMBLY JUNE 19, 1972

CALIFORNIA LEGISLATURE—1972 REGULAR SESSION

ASSEMBLY BILL

No. 1547

Introduced by Assemblyman Sieroty

March 15, 1972

REFERRED TO COMMITTEE ON JUDICIARY

*An act to add Section 55 to the Civil Code, relating to disabled persons.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1547, as amended, Sieroty (Jud.). Disabled persons.

Provides procedure for obtaining injunction against further construction or operation of a public or private facility not conforming to building requirements with respect to blind or disabled persons.

*Applies only to future construction or alteration of facilities.*

Vote—Majority; Appropriation—No;

Fiscal Committee—No.

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

1 SECTION 1. Section 55 is added to the Civil Code, to  
2 read:  
3 55. (a) Notwithstanding any other provision of law, a  
4 blind or other physically disabled person may give  
5 *written* notice to the owner of any private facility, or, in  
6 the case of a public facility, to the person designated in  
7 Section 4453 of the Government Code or in Section 19958  
8 of the Health and Safety Code, that such facility contains  
9 unauthorized deviations from the requirements of

1 Sections 54 and 54.1, Section 4451 of the Government  
2 Code, or Section 19955 or 19955.5 of the Health and Safety  
3 Code.

4 (b) If such deviation is not rectified within 90 days of  
5 such notice, a blind or other physically disabled person  
6 may bring an action for an injunction against further  
7 construction or operation of the nonconforming facility  
8 until the deviation is corrected. ~~Such~~ *If the court finds the*  
9 *evidence of nonconformity clear and convincing, such*  
10 *blind or physically disabled person shall not be required*  
11 *to post a bond pursuant to Section 529 of the Code of Civil*  
12 *Procedure, and, if successful in obtaining an injunction,*  
13 *shall be awarded reasonable attorney's fees and court*  
14 *costs, ~~irregardless~~ regardless of whether the facility in*  
15 *question is public or private in character.*

16 (c) *This section shall apply only to future construction*  
17 *or alteration of facilities.*

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Volume 1

# Journal of the Assembly

Legislature of the State of California

1972 Regular Session

January 3, 1972, to January 5, 1973



**BOB MORETTI**  
Speaker of the Assembly

**CARLOS BEE**  
Speaker pro Tempore of the Assembly

**JACK R. FENTON**  
Majority Floor Leader

**BOB MONAGAN**  
Minority Floor Leader

**JAMES D. DRISCOLL**  
Chief Clerk of the Assembly

**Assembly Bill No. 1547:** By Assemblyman Sieroty—An act to add Section 55 to the Civil Code, relating to disabled persons.

Held at Desk by order of the Speaker pro Tempore.

**Assembly Bill No. 1548:** By Assemblyman Sieroty—An act to add Section 2924f to the Civil Code, relating to mortgages.

Held at Desk by order of the Speaker pro Tempore.

**Assembly Bill No. 1549:** By Assemblymen Burke, Duffy, Wakefield, and Campbell—An act to add Section 25952.5 to the Health and Safety Code, relating to abortions.

Held at Desk by order of the Speaker pro Tempore.

**Assembly Bill No. 1550:** By Assemblymen Burke, Duffy, Wakefield, and Campbell—An act to add Chapter 11.5 (commencing with Section 25956) to Division 20 of the Health and Safety Code, relating to abortions.

Held at Desk by order of the Speaker pro Tempore.

**Assembly Bill No. 1551:** By Assemblymen Burke, Hayes, Stull, Thomas, Beverly, Brathwaite, and Townsend—An act to amend Section 20017.8 of, and to add Section 21252.04 to, the Government Code, relating to the Public Employees' Retirement System.

Held at Desk by order of the Speaker pro Tempore.

**Assembly Bill No. 1552:** By Assemblymen Burke, Duffy, Wakefield, and Campbell—An act to amend Section 34.5 of the Civil Code, relating to minors.

Held at Desk by order of the Speaker pro Tempore.

**Assembly Bill No. 1553:** By Assemblyman Z'berg—An act to amend Section 3501 of the Government Code and to amend Section 13081 of, and to repeal Section 13085.1 of, the Education Code, relating to classified public school employees.

Held at Desk by order of the Speaker pro Tempore.

**Assembly Bill No. 1554:** By Assemblyman Z'berg—An act to add Chapter 3.7 (commencing with Section 5690) to Division 3 of the Business and Professions Code, relating to environmental grounds manager, and making an appropriation therefor.

Held at Desk by order of the Speaker pro Tempore.

**Assembly Bill No. 1555:** By Assemblyman Z'berg—An act to amend Section 74191 of the Government Code, relating to municipal courts.

Held at Desk by order of the Speaker pro Tempore.

**Assembly Bill No. 1556:** By Assemblyman Z'berg—An act to repeal Section 576 of the Streets and Highways Code, relating to state highways.

Held at Desk by order of the Speaker pro Tempore.

<i>Assembly Bill No.</i>	<i>Committee</i>
1540	Government Administration
1541	Government Administration
1542	Health
1543	Criminal Justice
1544	Health
1545	Government Administration
1546	Elections and Reapportionment
1547	Judiciary
1548	Finance and Insurance
1549	Health
1550	Health
1551	Retirement
1552	Health
1553	Education
1554	Commerce and Public Utilities
1555	Judiciary
1556	Transportation
1557	Judiciary
1558	Natural Resources and Conservation
1559	Planning and Land Use
1560	Transportation
1561	Natural Resources and Conservation
1562	Judiciary
1563	Natural Resources and Conservation
1564	Revenue and Taxation
1565	Elections and Reapportionment
1566	Elections and Reapportionment
1567	Elections and Reapportionment
1568	Elections and Reapportionment
1569	Elections and Reapportionment
1570	Elections and Reapportionment
1571	Elections and Reapportionment
1572	Elections and Reapportionment
1573	Elections and Reapportionment
1574	Elections and Reapportionment
1575	Government Administration
1576	Health
1577	Transportation
1578	Education
1579	Revenue and Taxation
1580	Revenue and Taxation
1581	Criminal Justice
1582	Environmental Quality
1583	Governmental Organization
1584	Welfare
1585	Revenue and Taxation
1586	Criminal Justice

**Committee on Finance and Insurance**

Assembly Chamber, June 14, 1972

Mr. Speaker: Your Committee on Finance and Insurance reports:  
AB No. 1369

With amendments with the recommendation: Amend, and do pass, as amended.

PIERSON, Chairman

Above bill ordered to second reading.

**Committee on Judiciary**

Assembly Chamber, June 16, 1972

Mr. Speaker: Your Committee on Judiciary reports:  
AB No. 1547

With amendments with the recommendation: Amend, and do pass, as amended.

WARREN, Chairman

Above bill ordered to second reading.

**REQUEST FOR UNANIMOUS CONSENT TO TAKE UP BILLS**

Mr. Deddeh was granted unanimous consent to take up Senate Bill No. 9 and Assembly Bill No. 406, without reference to file, for the purpose of reading the bills a second time and adopting the committee amendments at this time, that a rush order be placed upon the printing of the bills, and that Assembly Bill No. 406 be considered engrossed.

**SECOND READING OF BILLS BY UNANIMOUS CONSENT**

Senate Bill No. 9—An act to amend Sections 29530, 29532, and 29533 of the Government Code, to amend Sections 99209, 99240, 99241, 99260, 99267, 99305, 99401, 99403, 99405, and 99407 of, to repeal Section 99275 of, and to add Section 99275 to, the Public Utilities Code, and to amend Sections 6052.5, 6357, 7102, 7204.5, 7264, and 8101.5 of, and to add Sections 6357.1, 6357.2, 7204.6, and 7264.1 to, the Revenue and Taxation Code, relating to sales and use taxes to finance public transportation systems, and declaring the urgency thereof, to take effect immediately.

Bill read second time.

**Consideration of Committee Amendments**

The following amendments, proposed by the Committee on Transportation, were read, and adopted:

**Amendment No. 1**

In line 1 of the title of the printed bill, as amended in Assembly June 13, 1972, after "amend", insert "Sections 20820 and 20826 of the Business and Professions Code, to amend".

**Amendment No. 2**

In line 3 of the title, after "99209," insert "99213,".

**Assembly Bill No. 1547**—An act to add Section 55 to the Civil Code, relating to disabled persons.

Bill read second time.

#### Consideration of Committee Amendments

The following amendments, proposed by the Committee on Judiciary, were read, and adopted:

##### Amendment No. 1

On page 1, line 4, of the printed bill, after "give", insert "written".

##### Amendment No. 2

On page 2, line 4, strike out "Such", and insert "If the court finds the evidence of nonconformity clear and convincing, such".

##### Amendment No. 3

On page 2, line 9, strike out "irregardless", and insert "regardless".

##### Amendment No. 4

On page 2, after line 10, insert  
 "(c) This section shall apply only to future construction or alteration of facilities."

Bill ordered reprinted, and returned to the second reading file.

**Assembly Bill No. 1042**—An act to amend Section 13468.1 of, and to add Section 13468.3 to, the Education Code, relating to school certificated employees.

Bill read second time, and ordered to third reading.

#### SENATE BILLS RETURNED TO SECOND READING FILE PURSUANT TO THE RULES

Pursuant to the Assembly Rules, the following Senate bills were this day on the second reading file:

Senate Bills Nos. 1149 and 461, ordered to the Consent Calendar.

#### SECOND READING OF SENATE BILLS

**Senate Bill No. 266**—An act to amend, repeal, and add Section 10666 of the Fish and Game Code, relating to refuges.

Bill read second time, and ordered to the Consent Calendar.

**Senate Bill No. 1356**—An act to amend Section 5010.1 of the Public Resources Code, relating to the state park system.

Bill read second time, and ordered to the Consent Calendar.

**Senate Bill No. 635**—An act to amend Sections 7332, 7342, 7351 and 7420 of, and to add Section 7402 to, the Business and Professions Code, relating to cosmetology.

Bill read second time, and ordered to third reading.

### Consideration of Committee Amendments

The following amendment, proposed by the Committee on Education, was read, and adopted:

#### Amendment No. 1

On page 3, line 29, of the printed bill, as amended in Assembly May 10, 1972, after "Code.", insert "A minimum of 50 percent of said appropriation shall be expended for purposes of planning."

Bill ordered reprinted, and to be re-referred to the Committee on Ways and Means.

### REQUEST FOR UNANIMOUS CONSENT TO TEMPORARILY SUSPEND THE RULES

Mr. Brown was granted unanimous consent that the Assembly Rules be temporarily suspended for the purpose of setting Assembly Bills Nos. 1697, 2118, 355, 508, 2119, and 2249 for hearing in the Committee on Ways and Means, on Wednesday, June 21, 1972.

### CONSIDERATION OF DAILY FILE ASSEMBLY BILLS RETURNED TO SECOND READING FILE PURSUANT TO THE RULES

Pursuant to the Assembly Rules, the following Assembly bills were this day on the second reading file:

Assembly Bills Nos. 934, 969, 1213, 1883, 73, 2054, 904, 2358, 1518, 2040, 200, 221, 227, 327, 380, 407, 531, 558, 635, 698, 1445, 1505, 1704, 1714, 1724, 1925, 1837, 1973, 2284, 2341, 2371, 1938, 1369, and 1547, ordered to third reading.

Assembly Bills Nos. 1454, 1435, 281, 592, 1263, 1292, 1603, and 945, ordered to the Consent Calendar.

### SECOND READING OF ASSEMBLY BILLS

Assembly Bill No. 1313—An act to add Chapter 4 (commencing with Section 3800) to Division 4.5 of Title 1 of the Government Code, relating to campaign contributions.

Bill read second time, and ordered to third reading.

Assembly Bill No. 2238—An act to amend Sections 6130 and 6831 of the Elections Code, relating to nomination of candidates, and declaring the urgency thereof, to take effect immediately.

Bill read second time, and ordered to third reading.

Note: On June 21, 1972, the action was rescinded whereby Assembly Bills Nos. 1313 and 2238 were read a second time, and ordered to third reading. See page 5236.

Assembly Bill No. 1571—An act to amend Section 9169 of the Elections Code, relating to elections.

Bill read second time.

### Consideration of Committee Amendments

The following amendments, proposed by the Committee on Elections and Reapportionment, were read, and adopted:

Assembly Chamber, June 21, 1972

Mr. Speaker: Pursuant to your instructions, the Chief Clerk has examined:

- |             |             |
|-------------|-------------|
| AB No. 281  | AB No. 1435 |
| AB No. 1263 | AB No. 1454 |
| AB No. 1292 | AB No. 1603 |

And reports the same correctly re-engrossed.

JAMES D. DRISCOLL, Chief Clerk

Above bills ordered to the Consent Calendar.

Assembly Chamber, June 21, 1972

Mr. Speaker: Pursuant to your instructions, the Chief Clerk has examined:

- AJR No. 18

And reports the same correctly engrossed.

JAMES D. DRISCOLL, Chief Clerk

Above resolution ordered to the Consent Calendar.

Assembly Chamber, June 21, 1972

Mr. Speaker: Pursuant to your instructions, the Chief Clerk has examined:

- |             |             |             |
|-------------|-------------|-------------|
| AB No. 200  | AB No. 1445 | AB No. 1973 |
| AB No. 221  | AB No. 1704 | AB No. 2040 |
| AB No. 407  | AB No. 1714 | AB No. 2054 |
| AB No. 531  | AB No. 1724 | AB No. 2284 |
| AB No. 558  | AB No. 1925 | AB No. 969  |
| AB No. 1369 | AB No. 1938 |             |

And reports the same correctly re-engrossed.

JAMES D. DRISCOLL, Chief Clerk

Above bills ordered to third reading.

Assembly Chamber, June 21, 1972

Mr. Speaker: Pursuant to your instructions, the Chief Clerk has examined:

- |            |             |             |
|------------|-------------|-------------|
| AB No. 380 | AB No. 1213 | AB No. 1547 |
| AB No. 904 | AB No. 1505 | AB No. 1837 |
| AB No. 934 | AB No. 1518 |             |

And reports the same correctly engrossed.

JAMES D. DRISCOLL, Chief Clerk

Above bills ordered to third reading.

Assembly Chamber, June 21, 1972

Mr. Speaker: Pursuant to your instructions, the Chief Clerk has examined:

- AB No. 178
- AB No. 1357

And reports the same correctly re-engrossed.

JAMES D. DRISCOLL, Chief Clerk

Above bills ordered to third reading.

**Assembly Bill No. 1547**—An act to add Section 55 to the Civil Code, relating to disabled persons.

Bill read third time, and passed by the following vote:

**AYES**—Arnett, Badham, Bagley, Bee, Beverly, Brathwaite, Briggs, Burke, Burton, Chappie, Cline, Collier, Cory, Cullen, Davis, Deddeh, Dent, Duffy, Dunlap, Fenton, Foran, Gonsalves, Leroy F. Greene, Hayden, Hayes, Harvey Johnson, Karabian, Ketchum, Keysor, Knox, LaCoste, Lancaster, Lanterman, Lewis, MacDonald, Maddy, McAlister, McCarthy, Moorhead, Murphy, Powers, Priolo, Quimby, Ralph, Russell, Ryan, Seeley, Sieroty, Stull, Townsend, Vasconcellos, Wakefield, Warren, Waxman, Wilson, Wood, Z'berg, and Mr. Speaker—58.

**NOES**—None.

Bill ordered transmitted to the Senate.

**Assembly Bill No. 2010**—An act to add Article 1.3 (commencing with Section 17510) to Chapter 1 of Part 3 of Division 7 of the Business and Professions Code, relating to charitable solicitations.

Bill read third time, and passed by the following vote:

**AYES**—Arnett, Badham, Bagley, Barnes, Bee, Belotti, Beverly, Brathwaite, Briggs, Brown, Burke, Burton, Campbell, Chappie, Cline, Collier, Cory, Cullen, Davis, Deddeh, Dent, Duffy, Dunlap, Fenton, Foran, Gonsalves, Leroy F. Greene, Hayden, Hayes, Harvey Johnson, Ray E. Johnson, Karabian, Ketchum, Keysor, Knox, LaCoste, Lancaster, Lanterman, Lewis, MacDonald, Maddy, McAlister, McCarthy, Moorhead, Murphy, Powers, Priolo, Quimby, Ralph, Russell, Ryan, Seeley, Sieroty, Stacey, Stull, Townsend, Wakefield, Warren, Waxman, Wilson, Wood, Z'berg, and Mr. Speaker—63.

**NOES**—None.

Bill ordered transmitted to the Senate.

**Assembly Bill No. 1571**—An act to place specified constitutional amendments on the ballot, and declaring the urgency thereof, to take effect immediately.

Bill read third time.

#### Urgency Clause

Urgency clause read, and adopted by the following vote:

**AYES**—Arnett, Badham, Bagley, Bee, Beverly, Brathwaite, Briggs, Brown, Burke, Burton, Campbell, Chappie, Cline, Collier, Cory, Cullen, Davis, Deddeh, Dent, Duffy, Dunlap, Fenton, Foran, Gonsalves, Leroy F. Greene, Hayden, Hayes, Harvey Johnson, Karabian, Ketchum, Keysor, Knox, LaCoste, Lancaster, Lanterman, MacDonald, McAlister, McCarthy, Moorhead, Murphy, Powers, Priolo, Quimby, Ralph, Russell, Ryan, Seeley, Sieroty, Stacey, Stull, Townsend, Vasconcellos, Wakefield, Warren, Waxman, Wilson, Wood, Z'berg, and Mr. Speaker—59.

**NOES**—None.

The question being on the passage of the bill.

Bill passed by the following vote:

**AYES**—Arnett, Badham, Bagley, Bee, Beverly, Brathwaite, Briggs, Brown, Burke, Burton, Campbell, Chappie, Cline, Collier, Cory, Cullen, Davis, Deddeh, Dent, Duffy, Dunlap, Fenton, Foran, Gonsalves,



**MESSAGES FROM THE SENATE**

Senate Chamber, December 1, 1972

Mr. Speaker: I am directed to inform your honorable body that the Senate on this day returns without further action:

- AB No. 298
- AB No. 1566

DARRYL R. WHITE, Secretary of the Senate  
By J. Roy Gabriel, Assistant Secretary

Senate Chamber, December 1, 1972

Mr. Speaker: I am directed to inform your honorable body that the following died on the Senate file:

- ACA No. 13

DARRYL R. WHITE, Secretary of the Senate  
By John W. Rovane, Chief Assistant Secretary

Senate Chamber, December 1, 1972

Mr. Speaker: I am directed to inform your honorable body that the following died on the Senate file:

- AB No. 304
- AB No. 1250
- AB No. 1666

- AB No. 1864
- AB No. 1906
- AB No. 2388

DARRYL R. WHITE, Secretary of the Senate  
By John W. Rovane, Chief Assistant Secretary

Senate Chamber, December 1, 1972

Mr. Speaker: I am directed to inform your honorable body that the Senate refused passage to:

- AB No. 366
- AB No. 644
- AB No. 1100

- AB No. 1112
- AB No. 1547

- AB No. 1647
- AB No. 2167

DARRYL R. WHITE, Secretary of the Senate  
By John W. Rovane, Chief Assistant Secretary

Senate Chamber, December 1, 1972

Mr. Speaker: I am directed to inform your honorable body that the Senate refused adoption to:

- ACA No. 25
- ACA No. 48

DARRYL R. WHITE, Secretary of the Senate  
By John W. Rovane, Chief Assistant Secretary

## A.B. No.

- 1534 Introduced, held at desk, 1034; to committee, 1199; from committee without action, 8709
- 1535 Introduced, held at desk, 1034; to committee, 1199; from committee, 2264; read second time, 2398; engrossed, to Consent Calendar, 2405; passed, to Senate, 2637; from Senate, 4425; enrolled, to Governor, 4591; Chapter 172
- 1536 Introduced, held at desk, 1035; to committee, 1199; from committee without action, 8688
- 1537 Introduced, held at desk, 1035; to committee, 1199; from committee without action, 8705
- 1538 Introduced, held at desk, 1035; to committee, 1199; from committee, 4717; amended, 4751; engrossed, re-referred, 5020; from committee, 5541; read second time, 5632; passed, to Senate, 5927; from Senate, with amendments, 8181; amendments concurred in, 8185; enrolled, to Governor, 8674; Chapter 1417
- 1539 Introduced, held at desk, 1035; to committee, 1199; withdrawn and re-referred, 4207; from committee, 4295; amended (author's), 4296; engrossed, re-referred, 4531; from committee, 4991; read second time, 5049; passed on file, 5183; passed, to Senate, 5403; from Senate, with amendments, 7117; amendments concurred in, 7175; enrolled, to Governor, 7432; Chapter 1110
- 1540 Introduced, held at desk, 1035; to committee, 1200; from committee without action, 8697
- 1541 Introduced, held at desk, 1035; to committee, 1200; withdrawn and re-referred, 1696; from committee, 2217; amended (author's), 2220; engrossed, re-referred, 2259; from committee, 3660; amended, 3760; re-engrossed, 3815; read second time, 3830; passed on file, 4231; to inactive file, 4357; from inactive file, 5001; passed on file, 5091; to inactive file, 5170; considered without reference to file, read third time, amended, 5300; re-engrossed, to Consent Calendar, 5324; passed, to Senate, 5738; from Senate, 6843; enrolled, to Governor, 7206; vetoed, 7449; veto sustained, 7527
- 1542 Introduced, held at desk, 1035; to committee, 1200; withdrawn and re-referred, 1731; from committee, 4905; amended, 4946; engrossed, 5019; read second time, 5030; passed on file, 5482; to inactive file 5588; from inactive file, 5874; passed, to Senate, 5999; from Senate without action, 8753
- 1543 Introduced, held at desk, 1035; to committee, 1200; from committee without action, 8688
- 1544 Introduced, held at desk, 1035; to committee, 1200; from committee, amended (author's), 1841; engrossed, re-referred, 1937; from committee, 4385; amended (author's), 4386; re-engrossed, re-referred, 4530; from committee, re-referred, 4669; unanimous consent granted, consider re-engrossed, 5300; from committee, 5309; amended, re-referred, 5312; from committee, 5620; read second time, to Consent Calendar, 5712; passed, to Senate, 5855; from Senate, with amendments, 6839; amendments refused concurrence, to conference, 7063; Assembly appoints Conference Committee, 7091; Senate appoints Conference Committee, 7112; Assembly adopts conference report, 7349; Senate adopts conference report, 7778; enrolled, to Governor, 7983; Chapter 1164
- 1545 Introduced, held at desk, 1035; to committee, 1200; from committee without action, 8697
- 1546 Introduced, held at desk, 1035; to committee, 1200; from committee, 4411; amended (author's), 4412; engrossed, re-referred, 4531; from committee without action, 8692
- 1547 introduced, held at desk, 1036; to committee, 1200; from committee, 4996; amended, 5083; read second time, 5140; engrossed, 5209; passed, to Senate, 5784; from Senate, passage refused, 8751
- 1548 Introduced, held at desk, 1036; to committee, 1200; from committee without action, 8695
- 1549 Introduced, held at desk, 1036; to committee, 1200; from committee, 4405; Art. IV, Sec. 8(a) of Constitution dispensed with, unanimous consent granted, consider engrossed, 4541; amended, re-referred, 4543; from committee, 5109; amended, 5156; read second time, 5221; re-engrossed, 5249; passed, to Senate, 5735; from Senate without action, 8753



ASSEMBLY BILL

No. 2477

Introduced by Assemblyman Sieroty

May 15, 1973

REFERRED TO COMMITTEE ON JUDICIARY

*An act to add Section 56 to the Civil Code, relating to disabled persons.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2471, as introduced, Sieroty (Jud.). Disabled persons. Provides procedure for obtaining injunction against further construction and operation of a public or private facility not conforming to building requirements with respect to physically disabled persons.

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

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

1 SECTION 1. Section 56 is added to the Civil Code, to  
2 read:  
3 56. (a) Notwithstanding any other provision of law, a  
4 physically disabled person may give written notice to the  
5 owner of any private facility, or, in the case of a public  
6 facility, to the person designated in Section 4453 of the  
7 Government Code or in Section 19958 of the Health and  
8 Safety Code, that such facility contains unauthorized  
9 deviations from the requirements of Sections 54 and 54.1  
10 of this code, Chapter 7 (commencing with Section 4450)  
11 of Division 5 of Title 1 of the Government Code, or Part

1 5.5 (commencing with Section 19955) of Division 13 of  
2 the Health and Safety Code.

3 (b) If such deviation is not rectified within 90 days of  
4 such notice, a physically disabled person may bring an  
5 action for an injunction against further construction and  
6 operation therein of the nonconforming facility until the  
7 deviation is corrected. If successful in obtaining an  
8 injunction, the physically disabled person may be  
9 awarded reasonable attorney's fees and court costs,  
10 regardless of whether the facility in question is public or  
11 private in character.

O





# North Coast Builders Exchange

P. O. BOX 6025 . . . . . 3559 AIRWAY DRIVE

542-9502 A/C 707

SANTA ROSA, CALIFORNIA 95406

July 5, 1973

JOHN ANDERSON, Pres.  
Rapp Construction Co.  
Santa Rosa

JOHN LARSEN, Vice Pres.  
Stolting Electric  
Santa Rosa

LEN SILVA, Sec.-Treas.  
Preco Erection Co.  
Sonoma

#### DIRECTORS

G. W. McDERMOTT  
Western Builders Roofing  
Santa Rosa

BOB BARTLEY  
Bartley Pump  
Santa Rosa

BERT BROWN  
Kelly-Moore Paint  
Santa Rosa

DICK DOWD  
Don Dowd Co.  
Sebastopol

JOHN GERVIN  
Bank of California  
Santa Rosa

JOHN KING  
Empire Plumbing  
Santa Rosa

WALLY LEISER  
Leiser Landscaping  
Santa Rosa

JIM MITCHELL  
Mitchell & Heryford  
Santa Rosa

BOB RATH  
Best & Feaks Ins.  
Sebastopol

LARRY ROBBINS  
General Contractor  
Santa Rosa

JOHN SIMSLES  
Christensen & Foster  
Santa Rosa

JACK SMITH  
Jack Smith Glass  
Santa Rosa

DON WELLYER  
Aves Corp.  
Santa Rosa

#### HONORARY LIFE MEMBERS

ROBERT W. CLARK  
JULIAN W. KIEHL

Assemblyman Sieroty  
State Capitol Building  
Sacramento, CA

RE: AB 2471

The North Coast Builders Exchange and Independent Exchanges of California are in opposition to AB 2471 as written. The responsibility here would leave a contractor in a very difficult position if he had been directed to build a structure according to engineering standards, plans checks, code compliances, environmental impact reports and everything else only to find that those who were responsible for design or knowledge of this must in present day construction have failed to catch it either in plans check or in errors and omissions.

It would seem that the contractor should also be rewarded for anyone directing him to do a job that is not in compliance with the Health and Safety Code. We therefore would recommend that liability be shifted here from the contractor to those who are basically liable for the design and approval.

Chas. Paul Corbin, Legislative Advocate  
Independent Exchanges include Sacramento,  
North Coast, Peninsula, Oakland & Stockton

cc: C. Henderson, Secretary, Assembly Judiciary Comm.

CONSTRUCTION INFORMATION . . . WHEN YOU NEED IT MOST

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CITY OF PACIFIC GROVE

PACIFIC GROVE, CALIFORNIA 93950

TELEPHONE (408) 375-9861

GARY W BALES  
CITY MANAGER

WILLIAM S PITT  
DIRECTOR OF FINANCE  
CITY CLERK AND TREASURER

THEODORE G MORRIS  
CITY ATTORNEY

March 11, 1974

Senator Alfred H. Song  
Chairman, Senate Committee on  
Judiciary  
State Senate  
State Capitol  
Sacramento, CA 95814

Re: AB 2471

Dear Senator Song:

The City of Pacific Grove is opposed to AB 2471 pertaining to building requirements for physically disabled.

We concur with the concept that all new facilities should be constructed so as to provide easy access and use by the physically disabled.

AB 2471 as we understand it would permit a physically disabled person to give a written notice to the owner of any existing private or public facility that the building deviates from building requirements for physically handicapped persons. We object to the concept that such notice will require substantial expense resulting from modification to existing buildings.

As we understand this measure, we would urge the opposition of your committee.

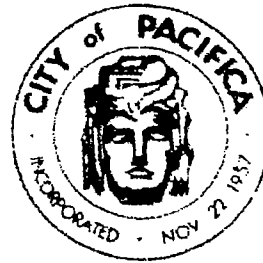
Sincerely yours,

*James R. Hughes, D.D.S.*  
JAMES R. HUGHES, D.D.S.  
Chairman, Legislative Committee

JRH/bjv

cc: Senator Donald L. Grunsky  
Assemblyman Robert Wood  
League of California Cities





*Scenic Pacifica*

March 18, 1974

The Honorable Alfred H. Song  
Chairman, Senate Judiciary Committee  
State Capitol  
Sacramento, California 95814

Subject: AB 2471 (Building Requirements for the Physically Disabled)

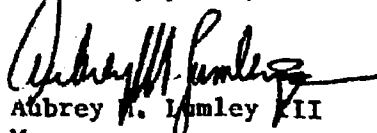
Dear Senator Song:

The City of Pacifica opposes the enactment of Assembly Bill 2471 and requests your support in opposition of AB 2471. The City opposes the bill for the following reasons:

1. Previous legislation has mandated that any private or public facility constructed after July 1, 1970 which contains deviations from building requirements with respect to the physically handicapped is not permitted under the law; therefore, public facilities constructed since that date must make allowances for the physically disabled.
2. It appears that the regulations contained within AB 2471 pertaining to the building requirements for the physically handicapped would apply to those public facilities constructed prior to July 1, 1970. This would place a severe financial burden on many local governmental agencies.

Your cooperations and assistance in this matter is appreciated.

Sincerely yours,

  
Aubrey N. Lumley III  
Mayor



AMENDED IN SENATE APRIL 22, 1974

CALIFORNIA LEGISLATURE—1973-74 REGULAR SESSION

ASSEMBLY BILL

No. 2471

Introduced by Assemblyman Sieroty

May 15, 1973

REFERRED TO COMMITTEE ON JUDICIARY

*An act to add Section 56 55 to the Civil Code, relating to disabled persons.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2471, as amended, Sieroty (Jud.). Disabled persons. Provides procedure for obtaining injunction against further construction and operation of a public or private facility not conforming to building requirements with respect to physically disabled persons.

*Provides that in any action to enforce specified provisions of law relating to construction and operation of public or private facilities not conforming to building requirements with respect to physically disabled persons, prevailing party is entitled to reasonable attorney's fees.*

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

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

- 1 SECTION 1. Section 56 is added to the Civil Code, to
- 2 SECTION 1. Section 55 is added to the Civil Code, to
- 3 read:
- 4 55. In any action to enforce the provisions of Sections

1 54 and 54.1 of this code, Chapter 7 (commencing with  
2 Section 4450) of Division 5 of Title 1 of the Government  
3 Code, or Part 5.5 (commencing with Section 19955) of  
4 Division 13 of the Health and Safety Code, the prevailing  
5 party shall be entitled to reasonable attorney's fees.

6 read:

7 56. (a) Notwithstanding any other provision of law, a  
8 physically disabled person may give written notice to the  
9 owner of any private facility, or, in the case of a public  
10 facility, to the person designated in Section 4453 of the  
11 Government Code or in Section 19958 of the Health and  
12 Safety Code, that such facility contains unauthorized  
13 deviations from the requirements of Sections 54 and 54.1  
14 of this code, Chapter 7 (commencing with Section 4450)  
15 of Division 5 of Title 1 of the Government Code, or Part  
16 5.5 (commencing with Section 19955) of Division 13 of  
17 the Health and Safety Code.

18 (b) If such deviation is not rectified within 90 days of  
19 such notice, a physically disabled person may bring an  
20 action for an injunction against further construction and  
21 operation therein of the nonconforming facility until the  
22 deviation is corrected. If successful in obtaining an  
23 injunction, the physically disabled person may be  
24 awarded reasonable attorney's fees and court costs,  
25 regardless of whether the facility in question is public or  
26 private in character.



SENATE COMMITTEE ON JUDICIARY

BACKGROUND INFORMATION

AB2471

1. Source

- (a) What group, organization, governmental agency, or other person, if any, requested the introduction of the bill?

*Mason Ave, LA Atty  
Nathaniel Akshelofsky/Asm.*

- (b) Which groups, organizations, or governmental agencies have contacted you in support of, or in opposition to, your bill?

*NRA - support*

- (c) If a similar bill has been introduced at a previous session of the Legislature, what was its number and the year of its introduction?

*AB1547 (1972) but this bill deletes the  
objectional language relating to bond exemption found  
at p. 2 l. 11-15 of the attached copy.*

2. PURPOSE

What problem or deficiency under existing law does the bill seek to remedy?

*Lack of enforceability of non-compliance with laws  
guaranteeing access to public buildings to physically-disabled  
persons.*

If you have any further background information or material relating to the bill, please enclose a copy of it or state where the information or material is available.

PLEASE COMPLETE THIS FORM AND RETURN IT TO THE SENATE COMMITTEE ON JUDICIARY, ROOM 2046 AS SOON AS POSSIBLE. IN ANY CASE, PLEASE RETURN IT NOT LATER THAN 14 DAYS AFTER RECEIPT.



AB 2471 (Sieroty)  
As amended April 22  
Civil Code

A  
R  
2  
4  
7  
1

DISABLED PERSONS  
-ACCESS TO FACILITIES-

HISTORY

Source: National Rehabilitation Association

Prior Legislation: None

Support: Unknown

Opposition: North Coast Builders Exchange

DIGEST

Provides that the prevailing party is entitled to reasonable attorney's fees in any action to enforce any of the following provisions of existing law relating to the construction and operation of public or private facilities not conforming to existing requirements with respect to physically disabled persons:

- (1) The provisions guaranteeing equal rights to the full and free use of and access to public facilities and private facilities to which the general public is invited (Secs. 54 & 54.1, Civ. C.).
- (2) The provisions requiring that all public buildings, structures, sidewalks, curbs, and related facilities constructed with state, county, or municipal funds be accessible to physically handicapped persons (Ch. 7 (commencing with Sec. 4450), Div. 5, Title 1, Gov. C.).
- (3) The provisions requiring that public accommodations or facilities constructed in this state with private funds allow access by physically handicapped persons (Pt. 5.5

(more)

(commencing with Sec. 19955), Div. 13, H. & S. C.).

PURPOSE

Allow the prevailing party in an action to enforce provisions relating to access to facilities by physically disabled persons to recover reasonable attorney fees.

COMMENT

1. In 1968, the existing provisions of the Government Code which provide that public buildings constructed with public funds would thereafter be built so as to be usable by the physically handicapped were enacted. The following year a series of provisions in the Health and Safety Code were enacted to insure that access to public accommodations and facilities built with private funds would also adhere to the provisions of the Government Code. Two years later, the Legislature, by amending the provisions of the Government Code, extended the requirement that buildings and facilities constructed with public funds be accessible to the physically handicapped, so as to encompass structures, sidewalks, curbs, and related facilities. The Health and Safety Code provisions were amended in 1972 to include hospitals and any curbs or sidewalks intended for public use that are constructed with private funds. The Attorney General has concluded that the last amendment applies regardless of whether the sidewalks or curbs are constructed adjacent to buildings financed from state or local sources (57 Ops. Cal. Atty. Gen. 186 (April 16, 1974)).

This bill entitles the prevailing party, in an action to enforce these provisions, to reasonable attorney's fees.

WHILE THE PROVISIONS OF THE CIVIL CODE SPECIFY A MISDEMEANOR PENALTY FOR FAILURE TO COMPLY, NONE OF THE PROVISIONS APPEARS TO CONFER A RIGHT TO ENFORCE THE ACCESS PROVISIONS BY A CIVIL ACTION.



STATE CAPITOL  
SACRAMENTO, CALIFORNIA 95814  
(916) 445-7928  
  
DISTRICT OFFICE  
448 SOUTH BEVERLY DRIVE  
BEVERLY HILLS, CALIFORNIA 90212  
(213) 877-8888  
  
LARRY BRISKIN  
ADMINISTRATIVE ASSISTANT

# Assembly California Legislature

ALAN SIEROZY  
ASSEMBLYMAN, FIFTY-NINTH DISTRICT  
LOS ANGELES COUNTY

COMMITTEES  
CHAIRMAN, CRIMINAL JUSTICE  
CHAIRMAN, SELECT COMMITTEE ON  
COASTAL ZONE RESOURCES  
VICE CHAIRMAN, JOINT COMMITTEE  
FOR REVISION OF THE PENAL CODE  
NATURAL RESOURCES AND  
CONSERVATION  
TRANSPORTATION  
CHAIRMAN, SUBCOMMITTEE ON  
LOS ANGELES REGIONAL  
TRANSPORTATION  
WAYS AND MEANS

MEMBER  
ADVISORY COMMISSION ON MARINE  
AND COASTAL RESOURCES  
CALIFORNIA ARTS COMMISSION  
CALIFORNIA COUNCIL ON  
CRIMINAL JUSTICE

August 30, 1974

Honorable Ronald Reagan  
Governor of California  
State Capitol  
Sacramento, California 95814

Dear Governor Reagan:

I respectfully request your signature on Assembly Bill 2471, which is presently before you.

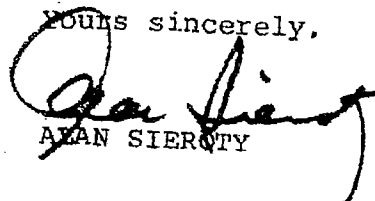
AB 2471 would enable physically-disabled persons to bring an action to enjoin violations of laws prohibiting architectural barriers in buildings accessible to the public. These barriers prevent physically handicapped persons from using such buildings. The bill would also enable the prevailing party in such an action to recover reasonable attorney's fees.

There are, at present, state laws which prevent architectural barriers in public and private buildings constructed after the date these laws went into effect (generally 1968 and 1969). Yet, these laws are often ignored by local government officials who are charged with the duty to enforce them.

AB 2471 is supported by the California Paralyzed Veterans Association, the California Association of the Physically Handicapped, the National Rehabilitation Association, and the Easter Seal Society of Los Angeles County. The bill passed the Assembly Judiciary Committee 7 to 1, the Assembly 69 to 1, the Senate Judiciary Committee 9 to 1, and the Senate 26 to 0.

I urge your favorable consideration of this legislation.

Yours sincerely,



ALAN SIEROZY

AS:LB:jcw



AGENCY Health and Welfare Agency	BILL NUMBER AB 2471 (8/8/74)
DEPARTMENT, BOARD OR COMMISSION Department of Rehabilitation	AUTHOR Sieroty

SUBJECT: Enforcement of Architectural Barrier Laws

SPONSORSHIP: Assemblyman Sieroty

RELATED BILLS: AB 1547 (Sieroty), 1972

HISTORY: Assemblyman Sieroty carried AB 1547 (1972) which would have permitted a blind physically handicapped person to bring action for an injunction to stop construction or operation of a building or facility which did not meet the architectural barrier laws without being required to post a bond.

ANALYSIS: This bill is much more moderate, specifying that an injunction may be brought and specifies that the prevailing party will be entitled to reasonable attorney fees. Under AB 2471, the plaintiff would have to post bond in order to bring the action.

Starting in 1968, several laws requiring buildings and other facilities be accessible to the physically handicapped have been passed. Enforcement of those architectural barrier laws have been very weak. Physically handicapped persons do not generally have income or resources necessary to pay for attorney fees when it is necessary to take flagrant violators to court. This bill will make clear that the prevailing party will be entitled to attorney's fees.

FISCAL IMPACT: No impact on state general funds. Other fiscal impact will depend upon awards made by the court.

FINANCE'S POSITION: Neutral

RECOMMENDATION:

Sign the bill

DEPARTMENT DIRECTOR <i>Alan C. Nelson</i>	DATE <i>9/4/74</i>	AGENCY SECRETARY <i>Tommy E. Elton</i>	DATE <i>9/12/74</i>
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**For the Court's  
Reference**

JAN RAYMOND

LEGISLATIVE | HISTORY & INTENT

# CIVIL CODE

## SECTION 55

ENACTED BY  
CHAPTER 1443, STATUTES OF 1974

P.O. Box 74005, Davis CA 95617 | Phone: (888) 676-1947 | Fax: (530) 750-0190 | [www.naj.net](http://www.naj.net)



1 **DECLARATION OF JAN S. RAYMOND**

2 I, Jan Raymond, declare:

3 1. I am an attorney licensed to practice by the California State Bar, State Bar number  
4 88703, and admitted to practice in the United States Federal Court for the Eastern District of  
5 California. My business is researching the history and intent of legislative and regulatory  
6 enactments and adoptions; I have over 20 years experience in research and analysis of  
7 legislative and regulatory intent. In cooperation with persons working under my supervision, I  
8 undertook to research the following project. All use of the word "project" in this declaration  
9 refers to legislative research addressed to this focus:

10 **Civil Code Section 55**  
11 As added by Chapter 1443, Statutes of 1974

12 2. At all times, all persons working on this project operated under instructions to locate  
13 all documents available pertinent to this adoption. This research was compiled in the days  
14 immediately prior to the date of this declaration, and reflects all the documents, and sources,  
15 available during that time pertinent to this project.

16 3. The documents listed are the substantive documents collected pertinent to the history  
17 of this project. The term "substantive documents" as used in the previous sentence refers to  
18 those documents relevant to the scope of the project. Some documents regarding the proposal  
19 related to this project may not be forwarded in this report. Documents not forwarded may  
20 include fiscal analyses addressing the budgetary impact of legislation, documents addressing  
21 other portions of the proposal not directly relevant to the project, documents addressing simple  
22 support for or opposition to the proposal, or other documents unlikely to be helpful in  
23 understanding the substantive purpose of the proposal. The complete collection of documents  
24 is organized in generally chronological order and sequentially numbered.

25 4. The California Legislature historically has not regularly recorded and/or transcribed  
26 committee or floor proceedings. But in recent decades, individual committees have sporadically  
27 recorded, and in some cases transcribed, committee proceedings. In addition, a select few  
(888) 676-1947

1 committee, and many floor, proceedings since the early 1990's are available on videotape.  
2 Beginning in the 2003-2004 session, an effort has been made to record almost all legislative  
3 proceedings in either audio or video format, although the effort is informal rather than mandated  
4 by detailed legislative rules and procedures. The recordings available in all media are uniformly  
5 difficult and time-consuming to access, rarely transcribed, and rarely contain substantive  
6 discussion that goes beyond the most simple and basic assertions about the legislation in  
7 question. In general, the documentary history contains much more detailed discussion of the  
8 intent and purpose of the bill under consideration. Therefore, this report was compiled using  
9 documentary sources only.

10 5. Individual documents may appear in multiple locations or files. We endeavor to  
11 obtain only one copy of the document. Where it is clearly important, we endeavor to note each  
12 source of the document in this declaration. But some documents for which we cite a single  
13 source may in fact have been found in multiple locations. Where this raises an issue important  
14 in individual circumstances, all source locations of particular documents can be identified upon  
15 request.

16 6. All documents listed are included with this declaration, except as otherwise noted in  
17 this declaration. All documents included are true and correct copies of the original documents.  
18 Unless otherwise noted in this declaration, all documents were obtained at one of the following  
19 sources: legislative offices at the State Capitol, the California State Library, the California State  
20 Archives, or libraries at the University of California at Davis. References to "bill file" as used in  
21 this declaration refer to files maintained regarding the legislation that is the subject of the  
22 document collection. Some documents copied from microfilm originals may be of poor quality;  
23 all copies included with this report are the best available copies.

24 7. In this list of documents the abbreviation SRC refers to the Senate Republican  
25 Caucus. The following listed documents that accompany this declaration are true and correct  
26 copies:  
27

1	<b><u>Assembly Bill 1547</u></b>	
2	Excerpt regarding Assembly Bill 1547 (Sieroty) from the Assembly Final History, 1972 Regular Session.	Page 1
3	Assembly Bill 1547 as introduced March 15, 1972.	Page 3
4	Legislative Counsel's Digest, from the bill file of Assemblyman Sieroty, one page.	Page 5
5	Department of General Services analysis of AB 1547, as introduced, from the bill file of the Senate Committee on Governmental Organizations.	Page 7
6	Documents regarding AB 1547, as introduced, from the bill file of Assemblyman Sieroty, two pages.	Page 8
7	Assembly Committee on Judiciary analysis of AB 1547, as introduced, from the bill file of the Senate Committee on Governmental Organizations.	Page 11
8	Documents regarding AB 1547, as introduced, from the bill file of Assemblyman Sieroty.	Page 12
9	Opposition letter with analyses attached, from the bill file of Assemblyman Sieroty, three pages.	Page 14
10	Assembly Bill 1547 as amended in Assembly June 19, 1972.	Page 17
11	Legislative Analyst analysis of AB 1547 as amended June 19, 1972, from the bill file of the Senate Committee on Governmental Organizations.	Page 19
12	Senate Committee on Governmental Organizations analysis of AB 1547 as amended June 19, 1972, from the bill file of the Senate Committee on Governmental Organizations.	Page 21
13	Assembly Bill 1547 as amended in Senate July 24, 1972.	Page 23
14	Assembly Bill 1547 as amended in Senate July 31, 1972.	Page 25
15	Documents regarding AB 1547, from the bill file of Assemblyman Sieroty.	Page 27
16	Excerpt regarding AB 1547 from the Journal of the Senate, Regular Session, 1972.	Page 31
17	Excerpt regarding AB 1547 from the Journal of the Assembly, Regular Session, 1972.	Page 45
18	<b><u>1974 Chapter 1443</u></b>	
19	Excerpt regarding Assembly Bill 2471 (Sieroty) from the Assembly Final History, 1974 Regular Session.	Page 55
20	Assembly Bill 2471 as introduced May 15, 1973.	Page 57
21	Documents regarding AB 2471, as introduced, from the bill file of the Assembly Committee on Judiciary, two pages.	Page 59

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Assembly Committee on Judiciary analysis of AB 2471, as introduced, from the bill file of the Assembly Committee on Judiciary. Page 61

Documents regarding AB 2471, as introduced, from the bill file of the Senate Committee on Judiciary, two pages. Page 62

Assembly Bill 2471 as amended in Senate April 22, 1974. Page 65

Senate Committee on Judiciary Background Information Sheet for AB 2471, as amended April 22, 1974, from the bill file of the Senate Committee on Judiciary. Page 67

Senate Committee on Judiciary analysis of AB 2471, as amended April 22, 1974, from the bill file of the Senate Committee on Judiciary. Page 69

Documents regarding AB 2471, as amended April 22, 1974, from the bill file of the Senate Committee on Judiciary, five pages. Page 71

Assembly Bill 2471 as amended in Senate August 8, 1974. Page 77

SRC analysis of AB 2471, as amended August 8, 1974, from the bill file of the SRC. Page 79

Documents regarding AB 2471 from the Enrolled Bill File of former Governor Ronald Reagan, eight pages. Page 80

Chapter 1443, Statutes of 1974. Page 89

Excerpt regarding Chapter 1443 from the Summary Digest for 1974. Page 91

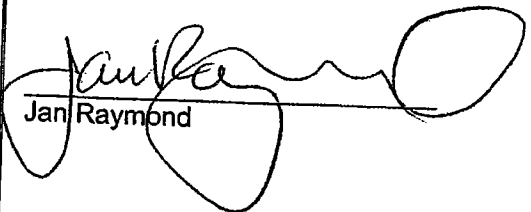
Excerpt regarding AB 2471 from the Journal of the Assembly, Regular Session, 1974. Page 93

Excerpt regarding AB 2471 from the Journal of the Senate, Regular Session, 1974. Page 95

This collection ends with page 96

**I declare under penalty of perjury the foregoing is true and correct.**

Executed at Davis, California, June 16, 2010.

  
Jan Raymond

CALIFORNIA LEGISLATURE  
AT SACRAMENTO  
1972 REGULAR SESSION

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# ASSEMBLY FINAL HISTORY

SYNOPSIS OF  
ASSEMBLY BILLS, CONSTITUTIONAL AMENDMENTS, CONCURRENT  
AND JOINT RESOLUTIONS, AND HOUSE RESOLUTIONS

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Assembly Convened January 3, 1972  
Recessed March 23, 1972  
Recessed June 1, 1972  
Recessed July 7, 1972  
Recessed August 4, 1972  
Recessed November 22, 1972  
Constitutional Recess  
December 1, 1972  
Reconvened April 3, 1972  
Reconvened June 7, 1972  
Reconvened July 17, 1972  
Reconvened November 8, 1972  
Reconvened November 27, 1972  
Reconvened January 1, 1973  
Adjourned Sine Die January 5, 1973

Legislative Days ..... 139  
Calendar Days ..... 369

Last Day for Filing Referendum, March 6, 1973

All Bills Chaptered, Unless Otherwise Specifically Provided for in the Bill,  
Become Effective March 7, 1973

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HON. BOB MORETTI  
*Speaker*

HON. JACK R. FENTON  
*Majority Floor Leader*

HON. CARLOS BEE  
*Speaker pro Tempore*

HON. BOB MONAGAN  
*Minority Floor Leader*

Compiled Under the Direction of

JAMES D. DRISCOLL  
*Chief Clerk*

GUNYOR ENGLE  
*History Clerk*

## A B No. 1547—Sieroty.

An act to add Section 55 to the Civil Code, relating to disabled persons

- Mar 15—Read first time
- Mar 16—Referred to Com on JUD
- April 4—To committee
- June 16—From committee Amend, and do pass as amended
- June 19—Read second time and amended Ordered returned to second reading file
- June 20—Read second time To third reading
- July 3—Read third time, passed, and to Senate
- July 3—In Senate Read first time
- July 5—Referred to Com on C O
- July 21—From committee Amend, and do pass as amended
- July 24—Read second time, amended, and to third reading
- July 31—Read third time, amended, and returned to third reading
- Aug 2—Read third time, passage refused Motion to reconsider made by Senator Burgener Reconsideration granted
- Nov 30—Read third time, passage refused

## A.B No. 1548—Sieroty

An act to add Section 2924f to the Civil Code, relating to mortgages

- Mar 15—Read first time
- Mar 16—Referred to Com on FIN & INS
- April 4—To committee
- Dec 1—From committee without further action

## A B. No. 1549—Burke, Duffy, Wakefield, and Campbell.

An act to require the Board of Medical Examiners of the State of California to conduct a study and make a report relating to abortions, and making an appropriation therefor

- Mar 15—Read first time
- Mar 16—Referred to Com on HEALTH
- April 4—To committee
- June 8—From committee Amend, and do pass as amended, and re-refer to Com on W & M
- June 12—Read second time and amended
- June 13—Re-referred to Com on W & M
- June 19—From committee Amend, and do pass as amended
- June 20—Read second time and amended Ordered returned to second reading file
- June 21—Read second time To third reading
- July 3—Read third time, passed, and to Senate
- July 3—In Senate Read first time
- July 5—Referred to Com on H & W
- July 20—From committee Be re-referred to Com on RLS to be assigned to an appropriate committee for interim study Re-referred to Com on RLS
- Dec 1—From Senate committee without further action

ASSEMBLY BILL

No. 1547

Introduced by Assemblyman Sieroty

March 15, 1972

REFERRED TO COMMITTEE ON JUDICIARY

*An act to add Section 55 to the Civil Code, relating to disabled persons.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1547, as introduced, Sieroty (Jud.). Disabled persons. Provides procedure for obtaining injunction against further construction or operation of a public or private facility not conforming to building requirements with respect to blind or disabled persons.

Vote—Majority; Appropriation—No; Fiscal Committee—No.

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

- 1 SECTION 1. Section 55 is added to the Civil Code, to
- 2 read:
- 3 55. (a) Notwithstanding any other provision of law, a
- 4 blind or other physically disabled person may give notice
- 5 to the owner of any private facility, or, in the case of a
- 6 public facility, to the person designated in Section 4453 of
- 7 the Government Code or in Section 19958 of the Health
- 8 and Safety Code, that such facility contains unauthorized
- 9 deviations from the requirements of Sections 54 and 54.1,
- 10 Section 4451 of the Government Code, or Section 19955
- 11 or 19955.5 of the Health and Safety Code.
- 12 (b) If such deviation is not rectified within 90 days of

1 such notice, a blind or other physically disabled person  
2 may bring an action for an injunction against further  
3 construction or operation of the nonconforming facility  
4 until the deviation is corrected. Such blind or physically  
5 disabled person shall not be required to post a bond  
6 pursuant to Section 529 of the Code of Civil Procedure,  
7 and, if successful in obtaining an injunction, shall be  
8 awarded reasonable attorney's fees and court costs,  
9 irregardless of whether the facility in question is public  
10 or private in character.

O



**AUTUMN'S COPY**

Date: 3/23/72

Request No. 5860

LEGISLATIVE COUNSEL'S DIGEST

AB 1216 as introduced, Sieroty ( )  
Bill No. Author Committee

Disabled persons.  
General Subject

Provides procedure for obtaining injunction against further construction or operation of a public or private facility not conforming to building requirements with respect to blind or disabled persons.

Vote - Majority; Appropriation - No; Fiscal Committee - No.

LEGISLATIVE COUNSEL

JAN RAYMOND  
LEGISLATIVE | HISTORY & INTENT

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# BILL ANALYSIS

489.1

DEPARTMENT GENERAL SERVICES	AUTHOR ASSEMBLYMAN SIERCTY	BILL NUMBER AB 1547
SPONSORED BY UNKNOWN	RELATED BILLS UNKNOWN	DATE LAST AMENDED ORIGINAL

## BILL SUMMARY

### Specific Findings:

Assembly Bill No. 1547 provides procedures for obtaining an injunction against further construction or operation of a private or public facility not conforming to building requirements in respect to the Physically Handicapped Law.

Assembly Bill No. 1547 would allow a blind or physically disabled person to obtain an injunction against construction or operation of a facility without being required to post a bond for the purposes of reimbursing the owner for monies lost as a result of such action. The bill would also award reasonable attorney fees and court costs to the person initiating the action.

We are concerned that the bill could result in unreasonable actions being taken against the owner of a building or facility. A handicapped person could initiate action against the owner of a building or facility without posting a bond to protect the owner against excessive losses of revenue. If enacted Assembly Bill No. 1547 could result in unreasonable actions being initiated.

### Financial Analysis:

The bill would have no fiscal impact upon the Department of General Services is indeterminate however, if a number of legal actions were filed against the state it could be substantial.

(Date: 5/4/72)

## FORMAL POSITION:

OFFICE OF THE MAYOR  
SAN FRANCISCO

JOSEPH L. ALIOTO

11th & L Building  
Sacramento, California

May 8, 1972

Honorable Alan Sieroty  
State Capitol  
Sacramento, California 95814

Re: Assembly Bill 1547

*Alan*  
Dear Mr. ~~Sieroty~~:

This is to inform you that the policy-making committee of the City and County of San Francisco has reviewed the above bill and after hearing from the department concerned, has instructed us to oppose Assembly Bill 1547.

We will be happy to discuss this measure with you, or one of your assistants, at your convenience.

Sincerely yours,

*Jack*  
John F. Shelley  
Legislative Advocate

JFS/b

## DEPARTMENT OF GENERAL SERVICES

SACRAMENTO



Honorable Alan Sieroty  
State Assembly  
State Capitol  
Sacramento, California

Dear Assemblyman Sieroty:

The Department of General Services has carefully studied Assembly Bill No. 1547, introduced by you on March 15, 1972.

The bill would allow a blind or physically disabled person to obtain an injunction against construction or operation of a facility without being required to post a bond.

I believe that the present law is reasonable and allows responsible action to be initiated when necessary. I am concerned that the provisions of the bill could result in unreasonable action being taken against the owner of a building, a developer, or a contractor. Litigation would be initiated without posting a bond to protect against excessive loss of revenue.

For these reasons I must regretfully advise you that the Department of General Services is opposed to Assembly Bill No. 1547.

I would be happy to provide additional information or any assistance that you or any member of your staff may desire.

Sincerely,

A handwritten signature in cursive script that reads "Lawrence R. Robinson, Jr.".  
Lawrence R. Robinson, Jr.  
Director

cc: Assemblyman Charles Warren  
Chairman, Committee on Judiciary

JAN RAYMOND  
**LEGISLATIVE | HISTORY & INTENT**

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AB 1547 (Sieroty)

Structures nonconforming with building requirements to accommodate disabled or blind persons - injunctive relief.

Present law requires public and certain private facilities open to the public to accommodate the disabilities of the blind and physically handicapped. (CC 54 et seq; Gov't 4450 et seq; and H&S 19955 et seq.) A blind person is entitled to be accompanied by his guide dog into all such accommodations except apartments or single family rental units. (CC 54.1.)

Interference with admittance or enjoyment by disabled or blind persons of public facilities is a misdemeanor. (CC 54.3.) If the accommodation is a state or local government building, the entity must conform the facility to those specifications and standards designed to protect the disabled or blind within 90 days after discovery of deviation. (Gov't. 4452.)

PROPOSAL

Permits a blind or disabled person to notify the owner of a private facility or designated person operating a public facility that the facility deviates from the statutory standards protecting blind or disabled persons.

If the deviation is not within 90 days, the blind or disabled person may bring an action to enjoin further construction or operation of the facility until correction is made.

The blind or disabled person is entitled to the injunction without posting security (CCP 529) and reasonable attorney fees and court costs if he prevails.

COMMENT

1. Can't any person obtain an injunction or writ of mandamus now for non-conformance with these standards? Is this provision necessary? If so, why limit standing to sue to only blind or disabled persons?
2. Is the proposal broader than the present requirements demanded of private facilities? There should be a clear statement to the effect that the bill applies only if the private facility is controlled by the statutory requirements but is not in conformity with them.
3. Under CCP 529, the court must require security prior to issuing the injunction in an amount assuring that the applicant will pay the enjoined party's damages if the injunction is improperly issued.

5/15/72

N

OFFICE OF THE DIRECTOR

DEPARTMENT OF MOTOR VEHICLES

P. O. BOX 1828  
SACRAMENTO, CA 95809

22 May 72

Honorable Alan Sieroty  
The State Assembly  
State Capitol, Room 4155  
Sacramento, California 95814

Dear Assemblyman Sieroty:

The Department of Motor Vehicles is opposed to your bill, AB 1547, as introduced.

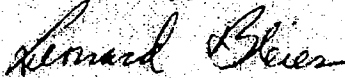
We do not object to complying with the existing law which requires that all new structures be compatible with the code for both disabled and blind persons. However, the present bill would allow any disabled or blind person to close down any or all structures of the Department of Motor Vehicles if the Department could not within 90 days rectify deviations found in any of our buildings.

The principle of allowing any single individual or group of individuals to close down the functioning of a governmental agency is untenable from our point of view.

The 90 day period is an unrealistic time in which to correct any deviation from the code. If the time limit is amended to a more realistic period, we would be pleased to remove our opposition.

Please let me know if I may work with you or your staff in this matter.

Respectfully,



LEONARD M. BLEIER  
Legislative Liaison



NATIONAL REHABILITATION ASSOCIATION  
of Southern California

9025 WILSHIRE BLVD. SUITE 414, BEVERLY HILLS 90211



May 27, 1972

Honorable Alan Sieroty  
State Capitol Building  
Sacramento, California 95814

Dear Assemblyman Sieroty:

The Executive Board of the Southern California Chapter of the National Rehabilitation Association on behalf of its membership wish to express its approval of your bill, AB 1547. This is a most important piece of legislation which will insure the accessibility of new construction to the physically disabled who have been previously been barred from too many areas.

We are well aware of your interest in the problems of the disabled and appreciate your sincere efforts on their behalf. It is through the efforts of dedicated legislators like you that the quality of life will be improved for all the residents of this state.

Respectfully,

*Saralea Altman R.N.*  
Saralea Altman, R.N.  
Secretary  
2239-1/4 S. Bentley  
Los Angeles, California 90064

SA:mn

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

P.O. BOX 878  
SACRAMENTO, CALIFORNIA 95804



June 8, 1972

File No.: 1.3674.A2035

Honorable Alan Sieroty  
The California Assembly  
State Capitol Building  
Sacramento, California 95814

Dear Mr. Sieroty:

The California Highway Patrol has adopted an "oppose" position on your bill, AB 1547. The attached analysis reflects the particular points of concern to this Department.

Sincerely,

A handwritten signature in cursive script, appearing to read "H. W. Sullivan".

H. W. SULLIVAN  
Commissioner

Attachment

## BILL SUMMARY

Provides procedure for obtaining injunction against further construction or operation of a public or private facility not conforming to building requirements with respect to blind or disabled persons.

## ANALYSIS

### A. Specific Findings:

This bill, as presently written, will permit any handicapped person (blind, paraplegic, amputee) to obtain an injunction against the owners of a private facility or public facility that does not fully comply to the building requirements with respect to special equipment or facilities for blind or disabled persons. The injunction could stop construction of a new facility or the operation of an existing facility. The bill provides that a blind or physically disabled person may give notice to the owners of the facility that a deviation exists to the several codes covering these matters and if the deviation is not rectified within 90 days an injunction can be sought. Such person is not required to place a bond and, if successful in obtaining the injunction, he could be awarded reasonable attorney fees and court costs irregardless of whether the facility is a public or private development.

The provisions of this bill have some merit in improving conditions in new construction for blind or disabled persons. However, it could result in a number of nuisance-type complaints and/or injunctions against the Department in the case of our State-owned facilities or our lessors in the case of leased facilities. The bill not only includes those facilities under construction, but the existing facilities. A typical case that may cause a problem would be the current requirement for a ramp into each publically owned and/or operated facility for use of wheelchair confined persons. All of our new facilities do have these ramps, however, approximately 80 percent of our facilities do not. Under this bill, the State and/or our lessors could be required to make expensive modifications to install ramps.

We believe that if these control procedures are necessary, that they should be incorporated into the administrative controls of an existing Department such as Human Resources Development or Department of Rehabilitation. Complainants should be required to file their complaints with an established department or function who would then process them, investigate the complaints, negotiate corrective solutions or alternatives and generally seek solutions to the problems without the immediate threat of injunctions, although these could be a last resort corrective action.

Due to the fact that the provisions of this bill encompass all State facilities and buildings, we will defer active opposition to the measure to the Department of General Services or the Department of Finance.

**B. Fiscal Analysis:**

We are unable to determine the resultant expense to the Department if this bill were passed. It is believed it could be quite large.

AMENDED IN ASSEMBLY JUNE 19, 1972

CALIFORNIA LEGISLATURE—1972 REGULAR SESSION

ASSEMBLY BILL

No. 1547

Introduced by Assemblyman Sieroty

March 15, 1972

REFERRED TO COMMITTEE ON JUDICIARY

*An act to add Section 55 to the Civil Code, relating to disabled persons.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1547, as amended, Sieroty (Jud.). Disabled persons. Provides procedure for obtaining injunction against further construction or operation of a public or private facility not conforming to building requirements with respect to blind or disabled persons.

*Applies only to future construction or alteration of facilities.*

Vote—Majority; Appropriation—No;  
Fiscal Committee—No.

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

1 SECTION 1. Section 55 is added to the Civil Code, to  
2 read:  
3 55. (a) Notwithstanding any other provision of law, a  
4 blind or other physically disabled person may give  
5 *written* notice to the owner of any private facility, or, in  
6 the case of a public facility, to the person designated in  
7 Section 4453 of the Government Code or in Section 19958  
8 of the Health and Safety Code, that such facility contains  
9 unauthorized deviations from the requirements of

1 Sections 54 and 54.1, Section 4451 of the Government  
2 Code, or Section 19955 or 19955.5 of the Health and Safety  
3 Code.

4 (b) If such deviation is not rectified within 90 days of  
5 such notice, a blind or other physically disabled person  
6 may bring an action for an injunction against further  
7 construction or operation of the nonconforming facility  
8 until the deviation is corrected. ~~Such~~ *If the court finds the*  
9 *evidence of nonconformity clear and convincing, such*  
10 *blind or physically disabled person shall not be required*  
11 *to post a bond pursuant to Section 529 of the Code of Civil*  
12 *Procedure, and, if successful in obtaining an injunction,*  
13 *shall be awarded reasonable attorney's fees and court*  
14 *costs, ~~irregardless~~ regardless of whether the facility in*  
15 *question is public or private in character.*

16 (c) *This section shall apply only to future construction*  
17 *or alteration of facilities.*

O

Legislative Analyst  
July 12, 1972

ANALYSIS OF ASSEMBLY BILL NO. 1547 (Sieroty)  
As Amended in Assembly, June 19, 1972  
1972 Session

AB 1547 (Am. 6/19).

Fiscal Effect:

Cost: None.

Revenue: None.

Analysis:

This bill would allow blind or physically disabled persons to obtain an injunction against further construction or operation of a public or private facility if the facility contains unauthorized deviations from statutes regulating building accessibility for the physically handicapped and if 90 days have elapsed from the time said person gave written notice to the owner informing him of the deviations. A bond will not be required for filing of the injunction if the court finds evidence of nonconformity to be clear and convincing. If the injunction is obtained, the plaintiff is to be awarded all reasonable attorney's fees and court costs.

This procedure is to apply only to future construction or alterations of facilities.

JAN RAYMOND  
**LEGISLATIVE | HISTORY & INTENT**

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AB 1547 ( Sieroty)  
Civil Code

7-17-72  
Comm. Consultant

A  
B

SUBJECT: Access to Buildings by the Disabled

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PURPOSE:

To provide a procedure for obtaining an injunction against further construction or operation of a public or private facility not conforming to building requirements with respect to disabled persons.

BACKGROUND:

Source: California Association of the  
Physically Handicapped

Prior Legis- AB 7 (Chappie) 1968  
lation: SB 4 (Burgener) 1968  
AB 2763 (Chappie) 1971

1. Permits a disabled person to notify the owner of a private facility or designated person operating a public facility that the facility deviates from the statutory standards protecting disabled persons.
2. Provides that if such deviation is not rectified within 90 days of such notice, a physically disabled person may bring an action for an injunction against further construction or operation of the non-conforming facility until the deviation is corrected.
3. Provides that the court, upon the finding that the evidence of non-conformity is clear and convincing, relieve the physically disabled person from posting a bond pursuant to Section 529 of the Code of Civil Procedure.
4. Provides that the provisions of the measure shall apply only to those buildings constructed or altered after the effective date of the bill

COMMENT:

1. Under the Code of Civil Procedure, Section 529, the Court must require security prior to issuing the injunction in an amount assuring that the applicant will pay the enjoining parties damages if the injunction is improperly issued.

2. Supporters of this measure argue that in large public facilities, such a bonding requirement prohibits an injunction for nonconformance with building requirements to accommodate disabled persons.

3. The Department of Rehabilitation is not opposed to this measure, and has indicated that the measure may have administration support prior to its hearing on July 20.

4. The author will present technical amendments to the bill before the committee on July 20.

5. The Department of General Services is in opposition to this measure, specifically with reference to the language stating that a physically disabled person may bring action for an injunction against further construction or operation of the non-conforming facility without being required to post a bond. It should be pointed out, however, that the author requires that before relief can be granted he must find clear and convincing evidence to the applicant's case.

###

AMENDED IN SENATE JULY 24, 1972  
AMENDED IN ASSEMBLY JUNE 19, 1972

CALIFORNIA LEGISLATURE—1972 REGULAR SESSION

ASSEMBLY BILL

No. 1547

Introduced by Assemblyman Sieroty

March 15, 1972

REFERRED TO COMMITTEE ON JUDICIARY

*An act to add Section 55 to the Civil Code, relating to disabled persons.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1547, as amended, Sieroty (Jud.). Disabled persons. Provides procedure for obtaining injunction against further construction ~~or~~ and operation of a public or private facility not conforming to building requirements with respect to ~~blind or physically~~ disabled persons.

Applies only to ~~future~~ construction ~~or alteration~~ of facilities commenced on or after effective date of section.

Vote—Majority; Appropriation—No;  
Fiscal Committee—No.

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

1 SECTION 1. Section 55 is added to the Civil Code, to  
2 read:  
3 55. (a) Notwithstanding any other provision of law, a  
4 ~~blind or other~~ physically disabled person may give  
5 written notice to the owner of any private facility, or, in  
6 the case of a public facility, to the person designated in

1 Section 4453 of the Government Code or in Section 19958  
2 of the Health and Safety Code, that such facility contains  
3 unauthorized deviations from the requirements of  
4 Sections 54 and 54.1, Section 4451 of the Government  
5 Code, or Section 19955 or 19955.5 of the Health and Safety  
6 Code.

7 (b) If such deviation is not rectified within 90 days of  
8 such notice, a ~~blind or other~~ physically disabled person  
9 may bring an action for an injunction against further  
10 construction ~~or~~ *and* operation *therein* of the  
11 nonconforming facility until the deviation is corrected. If  
12 the court finds the evidence of nonconformity clear and  
13 convincing, such ~~blind or~~ physically disabled person shall  
14 not be required to post a bond pursuant to Section 529 of  
15 the Code of Civil Procedure, and, if successful in  
16 obtaining an injunction, ~~shall~~ *may* be awarded reasonable  
17 attorney's fees and court costs, regardless of whether the  
18 facility in question is public or private in character.

19 (c) This section shall apply only to ~~future~~ construction  
20 or alteration of facilities *commenced on or after its*  
21 *effective date.*

O

AMENDED IN SENATE JULY 31, 1972  
AMENDED IN SENATE JULY 24, 1972  
AMENDED IN ASSEMBLY JUNE 19, 1972

CALIFORNIA LEGISLATURE—1972 REGULAR SESSION

ASSEMBLY BILL

No. 1547

Introduced by Assemblyman Sieroty

March 15, 1972

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LEGISLATIVE COUNSEL'S DIGEST

AB 1547, as amended, Sieroty (Jud.). Disabled persons. Provides procedure for obtaining injunction against further construction and operation of a public or private facility not conforming to building requirements with respect to physically disabled persons.

Applies only to construction of facilities commenced on or after effective date of section.

Vote—Majority; Appropriation—No;  
Fiscal Committee—No.

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

1 SECTION 1. Section 55 is added to the Civil Code, to  
2 read:  
3 55. (a) Notwithstanding any other provision of law, a  
4 physically disabled person may give written notice to the  
5 owner of any private facility, or, in the case of a public

1 facility, to the person designated in Section 4453 of the  
2 Government Code or in Section 19958 of the Health and  
3 Safety Code, that such facility contains unauthorized  
4 deviations from the requirements of Sections 54 and 54.1;  
5 ~~Section 4451 of this code, Chapter 7 (commencing with~~  
6 ~~Section 4450) of Division 5 of Title 1 of the Government~~  
7 ~~Code, or Section 19955 or 19955.5 Part 5.5 (commencing~~  
8 ~~with Section 19955) of Division 13 of the Health and~~  
9 ~~Safety Code.~~

10 (b) If such deviation is not rectified within 90 days of  
11 such notice, a physically disabled person may bring an  
12 action for an injunction against further construction and  
13 operation therein of the nonconforming facility until the  
14 deviation is corrected. If the court finds the evidence of  
15 nonconformity clear and convincing, such physically  
16 disabled person shall not be required to post a bond  
17 pursuant to Section 529 of the Code of Civil Procedure,  
18 and, if successful in obtaining an injunction, may be  
19 awarded reasonable attorney's fees and court costs,  
20 regardless of whether the facility in question is public or  
21 private in character.

22 (c) This section shall apply only to construction or  
23 alteration of facilities commenced on or after its effective  
24 date.

IMPORTANCE OF AB 1547

Prepared by Mason Rose  
Attorney  
Kindall & Anderson  
Los Angeles

Present California law provides that all buildings and facilities constructed with public funds, and all privately financed structures which are "public accommodations" must be constructed without architectural barriers so that they are accessible to physically handicapped persons. When a deviation from these laws is discovered, present law requires that it must be corrected within 90 days. The problem is that even after notice, the deviations are not being corrected.

Assembly Bill 1547 will provide an effective method for handicapped persons to enforce their rights to use public buildings and private accommodations. This bill is necessary because most handicapped people are also poor and cannot afford to hire an attorney to enforce their rights. Our handicapped population (including the permanently handicapped, the temporarily handicapped, and those who are physically handicapped by virtue of their age) compose 25 to 30% of our population. One of the most substantial problems encountered by handicapped persons is the architectural barrier.

The need for an effective means of enforcing these anti-barrier laws has become apparent. A typical example is the Los Angeles Convention Center. This facility was constructed at the cost of \$43 million of public funds. Prior to construction, during construction and after construction the convention authority

was informed of the anti-barrier laws and the necessity for compliance.

When the structure was completed it was totally inaccessible. After a year of negotiation, the first modification of the center was installed at a cost of \$20,000. The estimated cost of the additional modifications is \$30,000. If AB 1547 had been law at the time of construction of the center, \$50,000 of public funds could have been saved because with an effective means of enforcement 90 days written notice could have been given with authority and the changes incorporated during construction at little or no additional cost.

AB 1547 is carefully written so that it cannot be used as a tool of harrassment. Before a handicapped person can bring any court action, he must give 90 days written notice of any violation; then before the handicapped person can get an injunction against the non-conformity, he must present the court with "evidence of non-conformity clear and convincing." The court will then waive the bond normally required for an injunction.

In the last analysis, the effect of this bill is to allow the handicapped person (who is usually impoverished) to obtain an attorney and enforce his rights. Adequate safeguards have been built into the bill to guard against harrassment. The practical affect of this bill is that when its existence is pointed out to a non-conforming entity, the notice will be taken seriously, and if meritorius, changes will be made immediately without litigation.



STATEMENT ON AB 1547

AB 1547 was introduced at the request of the California Association of the Physically Handicapped.

Under present law, new public and certain private facilities must meet standards to provide accessibility for physically handicapped persons.

This bill deals with the ability of handicapped persons to enforce the existing law and simply removes the requirement that a bond be posted before an injunction may be granted by the court, provided three factors are first present:

1. A handicapped person must give 90 days written notice of the non-conformity to the owner;
2. The deviation is not rectified within the 90 day period;
3. The court finds clear and convincing evidence of non-conformity.

The bill applies only to the construction or alteration of facilities commenced on or after the effective date of the legislation and will greatly enable handicapped persons to enforce existing laws relating to architectural barriers.

I know of no known opposition.

NOT  
CURRENT  
LAW

JAN RAYMOND  
LEGISLATIVE | HISTORY & INTENT

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Volume 5

# Journal of the Senate

Legislature of the State of California

1972 Regular Session

January 3, 1972, to January 5, 1973



HON. ED REINECKE  
President of the Senate

HON. JAMES R. MILLS  
President pro Tempore

DARRYL R. WHITE  
Secretary of the Senate

Assembly Chamber, July 3, 1972

Mr. President: I am directed to inform your honorable body that the Assembly on this day passed:

AB 11	AB 1306	AB 1642
AB 252	AB 1320	AB 1697
AB 531	AB 1369	AB 1786
AB 569	AB 1411	AB 1808
AB 635	AB 1416	AB 1837
AB 674	AB 1417	AB 1938
AB 696	AB 1485	AB 1988
AB 791	AB 1491	AB 2010
AB 887	AB 1492	AB 2054
AB 898	AB 1541	AB 2118
AB 1085	AB 1547	AB 2239
AB 1192	AB 1549	AB 2249
AB 1201	AB 1571	AB 2341

JAMES D. DRISCOLL, Chief Clerk of the Assembly  
By R. Brian Kidney, Assistant Chief Clerk

Assembly Chamber, July 3, 1972

Mr. President: I am directed to inform your honorable body that the Assembly on this day adopted:

ACR 23	ACR 79	AJR 6
ACR 45	ACR 94	AJR 32
ACR 57	ACR 110	

JAMES D. DRISCOLL, Chief Clerk of the Assembly  
By R. Brian Kidney, Assistant Chief Clerk

### FIRST READING AND REFERENCE OF ASSEMBLY BILLS

The following bills were read the first time:

**Assembly Concurrent Resolution 114**--Relative to a recess of the Assembly.

Referred to Committee on Rules.

**Assembly Bill 11**--An act to amend Section 6903 of the Education Code, relating to public schools.

To Committee on Rules for assignment.

**Assembly Bill 252**--An act appropriating funds for increases in compensation for academic, and instructional and instructional related employees of public higher educational institutions, and declaring the urgency thereof, to take effect immediately.

To Committee on Rules for assignment.

**Assembly Bill 531**--An act to repeal Division 8 (commencing with Section 9201) of, and to add Division 8 (commencing with Section 9200) to, the Education Code, relating to instructional materials.

To Committee on Rules for assignment.

## Re-reference of Bills

The Committee on Rules today re-referred the following bills to committee:

*Senate Concurrent  
Resolution No.*

	<i>Committee</i>
65-----	Natural Resources and Wildlife
67-----	Transportation

*Senate Joint  
Resolution No.*

	<i>Committee</i>
26-----	Judiciary

*Senate  
Resolution No.*

	<i>Committee</i>
70-----	Transportation

*Assembly Concurrent  
Resolution No.*

	<i>Committee</i>
23-----	Governmental Organization
45-----	Judiciary
57-----	Governmental Organization
79-----	Transportation
94-----	Transportation
110-----	Health and Welfare

*Assembly Joint  
Resolution No.*

	<i>Committee</i>
6-----	Natural Resources and Wildlife

## Reference of Bills

The Committee on Rules today referred the following bills to committee:

*Assembly  
Bill No.*

	<i>Committee</i>
11-----	Education
252-----	Finance
531-----	Education
569-----	Governmental Organization
635-----	Finance
674-----	Industrial Relations
696-----	Health and Welfare
791-----	Industrial Relations
887-----	Elections and Reapportionment
898-----	Public Utilities and Corporations
1085-----	Judiciary
1192-----	Education
1201-----	Revenue and Taxation
1306-----	Transportation
1320-----	Judiciary
1369-----	Insurance and Financial Institutions
1411-----	Health and Welfare

<i>Assembly</i>		<i>Committee</i>
<i>Bill No.</i>		
1416	-----	Health and Welfare
1417	-----	Health and Welfare
1485	-----	Education
1491	-----	Governmental Organization
1492	-----	Governmental Organization

<i>Assembly</i>		<i>Committee</i>
<i>Bill No.</i>		
1541	-----	Health and Welfare
1547	-----	Governmental Organization
1549	-----	Health and Welfare
1571	-----	Elections and Reapportionment
1642	-----	Industrial Relations
1697	-----	Governmental Organization
1786	-----	Natural Resources and Wildlife
1808	-----	Health and Welfare
1837	-----	Transportation
1938	-----	Governmental Organization
1988	-----	Local Government
2010	-----	Judiciary
2054	-----	Transportation
2118	-----	Education
2239	-----	Judiciary
2249	-----	Governmental Organization
2341	-----	Governmental Organization

<i>Senate</i>		<i>Committee</i>
<i>Bill No.</i>		
1501	-----	Governmental Organization
1502	-----	Judiciary

**Committee on Transportation**

Senate Chamber, July 4, 1972

Mr. President: The Committee on Transportation, to which were referred:

AB 429	AB 913
AB 602	AB 1374

Has had the same under consideration, and reports the same back with the recommendation: Do pass and be placed on the Consent Calendar.

CARRELL, Chairman

Above bills ordered to second reading.

**Committee on Rules**

Senate Chamber, July 5, 1972

Mr. President: The Committee on Rules has examined:

SB 1302  
SB 1394

And reports the same correctly engrossed.

MILLS, Chairman

Senate Bill 805—An act to amend Sections 885.5 and 895.11 of the Education Code, relating to county school service funds;

Senate Bill 857—An act to add Section 5782.25 to the Public Resources Code, relating to recreation and park districts;  
And reports that the same have been correctly enrolled, and presented to the Governor on the 21st day of July, 1972, at 10:30 a.m.

MILLS, Chairman

Committee on Governmental Organization

Senate Chamber, July 21, 1972

Mr. President: The Committee on Governmental Organization, to which were referred:

SB 1501

AB 1708

AB 1805

Has had the same under consideration, and reports the same back with the recommendation: Do pass.

DILLS, Chairman

Above bills ordered to second reading.

Senate Chamber, July 21, 1972

Mr. President: The Committee on Governmental Organization, to which were referred:

AB 1547

AB 1887

AB 1933

Has had the same under consideration, and reports the same back with amendments with the recommendation: Amend, and do pass as amended.

DILLS, Chairman

Above bills ordered to second reading.

Senate Chamber, July 21, 1972

Mr. President: The Committee on Governmental Organization, to which was referred:

AB 1924

Has had the same under consideration, and reports the same back with the recommendation: Do pass, but first be re-referred to the Committee on Finance.

DILLS, Chairman

Above bill re-referred to the Committee on Finance.

Senate Chamber, July 21, 1972

Mr. President: The Committee on Governmental Organization, to which were referred:

AB 962

AB 1350

AB 1379

AB 2060

Has had the same under consideration, and reports the same back with amendments with the recommendation: Do pass as amended, but first amend, and re-refer to the Committee on Finance.

DILLS, Chairman

Above bills ordered to second reading.

**Senate Bill 1132**—An act to add Section 464 to the Education Code, relating to earthquake safety.

Bill read second time, ordered engrossed, and to third reading.

### SECOND READING OF ASSEMBLY BILLS

**Assembly Bill 1708**—An act to amend Sections 1167 and 1170 of the Harbors and Navigation Code, relating to pilots.

Bill read second time, and ordered to third reading.

**Assembly Bill 1805**—An act to add Section 20024.2 to the Government Code, relating to the Public Employees' Retirement System.

Bill read second time, and ordered to third reading.

**Assembly Bill 1547**—An act to add Section 55 to the Civil Code, relating to disabled persons.

Bill read second time.

### Consideration of Committee Amendments

The following amendments were proposed by the Committee on Governmental Organization:

#### Amendment 1

On page 1, line 4, of the printed bill, as amended in Assembly June 19, 1972, strike out "blind or other".

#### Amendment 2

On page 2, line 5, strike out "blind or other".

#### Amendment 3

On page 2, line 7, strike out "or", and insert "and".

#### Amendment 4

On page 2, line 7, after "operation", insert "therein".

#### Amendment 5

On page 2, line 10, strike out "blind or".

#### Amendment 6

On page 2, line 13, strike out "shall", and insert "may".

#### Amendment 7

On page 2, line 16, strike out "future".

#### Amendment 8

On page 2, line 17, after "facilities", insert "commenced on or after its effective date".

Amendments read, and adopted.

Bill ordered printed, and to third reading.

**Assembly Bill 1887**—An act to add Section 19060 to the Government Code, relating to the state civil service.

Bill read second time.



**RESOLUTIONS**

The following resolution was offered:

By Senators Marks and Moscone:

**Senate Resolution 80**

Relative to the Council of State Governments

*Resolved by the Senate of the State of California*, That the Members extend an invitation to the National Legislative Conference of the Council of State Governments to hold its 1974 convention in San Francisco; and be it further

*Resolved*, That the Secretary of the Senate transmit suitably prepared copies of this resolution to Mr. David Pingree, International Secretary of the Council of State Governments, to the Honorable Joseph L. Alioto, Mayor San Francisco, and to Mr. Homer F. Caswell, Convention Manager of the San Francisco Convention and Visitors Bureau.

Resolution read and adopted on motion of Senator Marks.

**MOTION TO SET SPECIAL CONSENT CALENDAR**

Senator Mills moved that the following bills be placed on the special Consent Calendar to be taken up on Friday, July 28, 1972.

Motion carried.

**ADDITIONAL BILLS TO BE PLACED ON THE SPECIAL CONSENT CALENDAR**

SB 1058	AB 1887	AB 2066
SB 1105	AB 1933	AB 2214
AB 1541	AB 441	AB 13
AB 1852	AB 1034	AB 369
AB 1857	AB 1450	AB 534
AB 1858	AB 517	AB 593
AB 2026	AB 2113	AB 683
AB 2046	AB 1152	AB 918
AB 876	AB 1504	AB 1028
AB 2082	AB 1520	AB 1150
AB 1805	AB 1522	AB 738
AB 1547	AB 1626	AJR 6

**CONSIDERATION OF DAILY FILE (RESUMED)****THIRD READING OF ASSEMBLY BILLS**

**Assembly Bill 821**—An act to amend Section 20360 of, and to add Section 20983.2 to, the Government Code, relating to the Public Employees' Retirement System, and declaring the urgency thereof, to take effect immediately.

Bill read third time, and presented by Senator Harmer.

**Urgency Clause**

Urgency clause read, and adopted by the following vote:

**AYES**—Senators Alquist, Behr, Beilenson, Biddle, Bradley, Burgener, Carpenter, Carrell, Collier, Coombs, Dills, Gregorio, Harmer,

7½% to 5% and for State officers and employees whose compensation, including staff benefits, or a portion thereof is payable from special funds, from 7½% to 5%.

The President put the question: Shall Item 80 of Senate Bill 50 become a law notwithstanding the objection of the Governor?

The roll was called.

### CALL OF THE SENATE

Pending the announcement of the vote, Senator Moscone moved a call of the Senate.

Motion carried. Time, 5:35 p.m.

The President directed the Sergeant at Arms to close the doors, and to bring in the absent Members.

### PROCEEDINGS UNDER CALL OF THE SENATE

#### OBJECTION RAISED

Senator Mills moved that the following bills be removed from the Special Consent Calendar and returned to the third reading file:

AB 599	AB 749	AB 1541
AB 683	AB 1028	AB 1547
AB 695	AB 1187	AB 1932
AB 699	AB 1405	

Motion carried.

### REQUEST FOR UNANIMOUS CONSENT

Senator Schrade asked for, and was granted, unanimous consent to take up at this time, Assembly Bill 484 without reference to file, for the purpose of amendment.

### THIRD READING OF ASSEMBLY BILLS (OUT OF ORDER)

Assembly Bill 484—An act to amend Section 128 of, and to add and repeal Section 8030.5 of the Business and Professions Code, relating to shorthand reporters, and declaring the urgency thereof, to take effect immediately.

Bill read third time.

#### Motion to Amend

Senator Schrade moved the adoption of the following amendment to Assembly Bill 484:

#### Amendment 1

On page 2, between lines 29 and 30 of the printed bill, as amended in Senate July 11, 1972, insert

"Sec. 2.5. It is the intent of the Legislature, if this bill and Senate Bill No. 901 are both chaptered and this bill amends and Senate Bill No. 901 repeals Section 128 of the Business and Professions Code, as added by Chapter 1363 of the Statutes of 1971, and this bill is chaptered after Senate Bill No. 901, that Section 1 of this bill shall not become operative."

Amendment read, and adopted.

Bill ordered reprinted and to third reading.

**CONSIDERATION OF DAILY FILE (RESUMED)  
CONSIDERATION OF MOTION TO RECONSIDER**

Senator Marks requested to take up at this time his motion to reconsider the vote whereby the conference report on Assembly Bill 1454 was refused adoption.

The roll was called, and reconsideration was granted by the following vote:

**AYES**—Senators Biddle, Bradley, Burgener, Carrell, Collier, Coombs, Deukmejian, Dymally, Gregorio, Grunsky, Kennick, Marks, Marler, Nejedly, Richardson, Roberti, Schrade, Stevens, Stiern, Teale, Walsh, Way, Wedworth, and Whetmore—24.

**NOES**—None.

Bill ordered returned to Unfinished Business.

**THIRD READING OF ASSEMBLY BILLS**

**Assembly Bill 1547**—An act to add Section 55 to the Civil Code, relating to disabled persons.

Bill read third time.

**Motion to Amend**

Senator Burgener moved the adoption of the following amendments to Assembly Bill 1547:

**Amendment 1**

On page 2, line 4, of the printed bill, as amended in Senate July 24, 1972, strike out “, Section 4451”, and insert “of this code, Chapter 7 (commencing with Section 4450) of Division 5 of Title 1”.

**Amendment 2**

On page 2, line 5, strike out “Section 19955 or 19955.5”, and insert “Part 5.5 (commencing with Section 19955) of Division 13”.

Amendments read, and adopted.

Bill ordered printed, and to third reading.

**REQUEST FOR UNANIMOUS CONSENT**

Senator Gregorio asked for, and was granted, unanimous consent that the Secretary of the Senate request the Governor to return Senate Bill 267 to the Senate for further action.

**CONSIDERATION OF DAILY FILE (RESUMED)  
THIRD READING OF ASSEMBLY BILLS (RESUMED)**

**Assembly Constitutional Amendment 2**—A resolution to propose to the people of the State of California an amendment to the Constitution of the state, by amending subdivision (c) of Section 7 of Article IV thereof, relating to meetings of the Legislature.

Resolution read third time, and presented by Senator Grunsky.

**Motion to Re-refer to Committee**

Senator Stiern moved that Assembly Constitutional Amendment 2 be re-referred to the Committee on Rules.

Motion carried.

Bill ordered re-referred to the Committee on Rules.

NOES—Senators Biddle, Bradley, Burgener, Carpenter, Carrell, Collier, Coombs, Deukmejian, Dills, Harmer, Marler, Richardson, Teale, Walsh, Way, Wedworth, and Zenovich—17.

Bill ordered transmitted to the Assembly.

### THIRD READING OF ASSEMBLY BILLS (RESUMED)

Assembly Bill 375—An act to add Section 11555.5 to the Government Code, to add Title 6 (commencing with Section 13800) and Title 6.5 (commencing with Section 13800) to Part 4 of, and to repeal Title 6 (commencing with Section 13800) of Part 4 of, the Penal Code, relating to criminal justice.

Bill read third time, and presented by Senator Grunsky.  
The roll was called.

### CALL OF THE SENATE

Pending the announcement of the vote, Senator Grunsky moved a call of the Senate.

Motion carried. Time, 7:43 p.m.

The President directed the Sergeant at Arms to close the doors, and to bring in the absent Members.

### PROCEEDINGS UNDER CALL OF THE SENATE

#### Motion to Refer Bill to Inactive File

Senator Song moved that Assembly Bill 389 be placed on the inactive file.

Motion carried.

Assembly Bill 1547—An act to add Section 55 to the Civil Code, relating to disabled persons.

Bill read third time, and presented by Senator Burgener.  
The roll was called.

### CALL OF THE SENATE

Pending the announcement of the vote, Senator Burgener moved a call of the Senate.

Motion carried. Time, 7:55 p.m.

The President directed the Sergeant at Arms to close the doors, and to bring in the absent Members.

### PROCEEDINGS UNDER CALL OF THE SENATE

#### MOTION TO SET SPECIAL CONSENT CALENDAR

Senator Mills moved that the following bills be placed on a special Consent Calendar to be taken up Thursday, August 3, 1972.

ACR 33

ACR 122

AB 1861

ACR 77

AB 1914

AB 1873

Motion carried.

Mosccone, Nejedly, Petris, Roberti, Rodda, Schrade, Short, Song, Stevens, Stiern, Teale, Way, Wedworth, Whetmore, and Zenovich—35.

NOES—None.

Bill ordered transmitted to the Assembly.

**Assembly Bill 2145**—An act to amend Section 739 of the Welfare and Institutions Code, relating to minors.

Bill read third time.

The roll was called, and the bill passed by the following vote:

AYES—Senators Alquist, Behr, Beilenson, Biddle, Bradley, Burgener, Carpenter, Collier, Coombs, Deukmejian, Dills, Gregorio, Grunsky, Harmer, Holmdahl, Kennick, Lagomarsino, Marks, Marler, Mills, Mosccone, Nejedly, Petris, Roberti, Rodda, Schrade, Short, Song, Stevens, Stiern, Teale, Way, Wedworth, Whetmore, and Zenovich—35.

NOES—None.

Bill ordered transmitted to the Assembly.

**Assembly Bill 2239**—An act to amend Section 1305 of the Penal Code, relating to bail.

Bill read third time.

The roll was called, and the bill passed by the following vote:

AYES—Senators Alquist, Behr, Beilenson, Biddle, Bradley, Burgener, Carpenter, Collier, Coombs, Deukmejian, Dills, Gregorio, Grunsky, Harmer, Holmdahl, Kennick, Lagomarsino, Marks, Marler, Mills, Mosccone, Nejedly, Petris, Roberti, Rodda, Schrade, Short, Song, Stevens, Stiern, Teale, Way, Wedworth, Whetmore, and Zenovich—35.

NOES—None.

Bill ordered transmitted to the Assembly.

#### FURTHER PROCEEDINGS UNDER CALL OF THE SENATE DISPENSED WITH (AB 1547)

At 10:20 p.m., on motion of Senator Burgener, further proceedings under the call of the Senate were dispensed with.

The names of the absentees were called, and Assembly Bill 1547 refused passage by the following vote:

AYES—Senators Alquist, Beilenson, Burgener, Carrell, Coombs, Gregorio, Grunsky, Kennick, Marks, Mills, Mosccone, Petris, Roberti, Rodda, Short, Song, Wedworth, and Zenovich—18.

NOES—Senators Behr, Biddle, Bradley, Carpenter, Collier, Deukmejian, Dills, Harmer, Holmdahl, Lagomarsino, Marler, Nejedly, Schrade, Stevens, Stiern, Teale, Way, and Whetmore—18.

#### MOTION TO RECONSIDER

Senator Burgener moved to reconsider the vote whereby Assembly Bill 1547 was refused passage.

The roll was called, and reconsideration was granted by the following vote:

AYES—Senators Alquist, Behr, Beilenson, Biddle, Bradley, Burgener, Carpenter, Collier, Coombs, Deukmejian, Gregorio, Grunsky, Harmer, Holmdahl, Kennick, Lagomarsino, Marks, Marler, Mills, Mos-

cone, Nejedly, Petris, Roberti, Rodda, Schrade, Short, Song, Stevens, Stern, Teale, and Zenovich—31.

NOES—None.

Bill ordered returned to third reading.

### THIRD READING OF ASSEMBLY BILLS (RESUMED)

**Assembly Bill 320**—An act to add Sections 84.5, 991, and 1809 to the Streets and Highways Code, relating to streets and highways.

Bill read third time, and presented by Senator Teale.

The roll was called, and the bill passed by the following vote:

**AYES**—Senators Alquist, Beilenson, Biddle, Burgener, Carpenter, Coombs, Dills, Gregorio, Grunsky, Harmer, Holmdahl, Kennick, Lagomarsino, Marks, Marler, Mills, Nejedly, Petris, Roberti, Rodda, Schrade, Song, Stevens, Stern, Teale, Way, and Zenovich—27.

**NOES**—Senator Bradley—1.

Bill ordered transmitted to the Assembly.

**Assembly Bill 1262**—An act to amend Section 24073 of, and to add Section 24074.3 to, the Business and Professions Code, relating to alcoholic beverages.

Bill read third time, and presented by Senator Teale.

The roll was called, and the bill passed by the following vote:

**AYES**—Senators Alquist, Behr, Beilenson, Biddle, Bradley, Burgener, Carpenter, Coombs, Deukmejian, Dills, Gregorio, Grunsky, Harmer, Holmdahl, Kennick, Marks, Marler, Mills, Nejedly, Petris, Roberti, Rodda, Schrade, Song, Stevens, Teale, Way, Whitmore, and Zenovich—29.

**NOES**—None.

Bill ordered transmitted to the Assembly.

### FURTHER PROCEEDINGS UNDER CALL OF THE SENATE DISPENSED WITH (AB 1778)

At 10:28 p.m., on motion of Senator Gregorio, further proceedings under the call of the Senate were dispensed with.

The names of the absentees were called, and Assembly Bill 1778 was refused passage by the following vote:

**AYES**—Senators Alquist, Behr, Beilenson, Carrell, Dymally, Gregorio, Grunsky, Kennick, Marks, Moscone, Petris, Roberti, Rodda, Short, Stevens, Teale, and Zenovich—17.

**NOES**—Senators Biddle, Bradley, Burgener, Carpenter, Collier, Coombs, Deukmejian, Dills, Harmer, Holmdahl, Lagomarsino, Marler, Nejedly, Richardson, Schrade, Stern, Walsh, Way, Wedworth, and Whitmore—20.

### MOTION TO RECONSIDER

Senator Gregorio moved to reconsider the vote whereby Assembly Bill 1778 was refused passage.

The roll was called, and reconsideration was granted by the following vote:

**AYES**—Senators Alquist, Behr, Beilenson, Biddle, Burgener, Carpenter, Coombs, Dills, Gregorio, Grunsky, Harmer, Holmdahl, Ken-

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by amending subdivision (i) of Section 14 $\frac{1}{2}$  of, and by repealing subdivision 3 of Section 16 of, Article XIII thereof, relating to taxation.

Resolution read third time.

The roll was called.

#### CALL OF THE SENATE

Pending the announcement of the vote, Senator Nejedly moved a call of the Senate.

Motion carried. Time, 3:49 p.m.

The President directed the Sergeant at Arms to close the doors, and to bring in the absent Members.

#### PROCEEDINGS UNDER CALL OF THE SENATE

Senator Stevens Presiding

Assistant Secretary J. Roy Gabriel Reading

#### THIRD READING OF SENATE BILLS (RESUMED)

Motion to Refer Bill to Inactive File

Senator Roberti moved that Senate Bill 991 be placed on the inactive file.

Motion carried.

#### THIRD READING OF ASSEMBLY BILLS (RESUMED)

Assembly Bill 1547—An act to add Section 55 to the Civil Code, relating to disabled persons.

Bill read third time, and presented by Senator Burgener.

The roll was called, and the bill refused passage by the following vote:

AYES—Senators Alquist, Beilenson, Burgener, Gregorio, Petris, Roberti, Rodda, Way, and Zenovich—9.

NOES—Senators Behr, Bradley, Carpenter, Collier, Coombs, Cusanovich, Deukmejian, Holmdahl, Kennick, Lagomarsino, Mills, Richardson, Schrade, Stevens, Teale, Walsh, Wedworth, and Whetmore—18.

Assembly Bill 1778—An act to amend Section 11530 of the Health and Safety Code, relating to marijuana.

Bill read third time, and presented by Senator Gregorio.

The roll was called.

#### CALL OF THE SENATE

Pending the announcement of the vote, Senator Gregorio moved a call of the Senate.

Motion carried. Time, 4:26 p.m.

The President directed the Sergeant at Arms to close the doors, and to bring in the absent Members.

A.B. No.

- 1520 From Assembly, read first time, 3815; to committee, 4023; from committee, re-referred to committee, 5120; from committee, 5572; read second time, 5697; to Consent Calendar, 5790; read third time, passed, to Assembly, 6088
- 1522 From Assembly, read first time, 3949; to committee, 4027; author's amendments, 4283; from committee, re-referred to committee, 4935; from committee, 5572; read second time, 5697; to Consent Calendar, 5790; read third time, passed, to Assembly, 6088; Senate amendments concurred in, 6190
- 1527 From Assembly, read first time, 4920; to committee, 5144; from committee, 5568; read second time, amended, 5679; read third time, passed, to Assembly, 6465; Senate amendments not concurred in, Assembly appoints Conference Committee, Senate appoints Conference Committee, 7746; Assembly adopts conference report, 7922; Senate adopts conference report, 7993
- 1528 From Assembly, read first time, 3815; to committee, 4023; from committee, 5916; read second time, 5963; to Consent Calendar, 6126; read third time, passed, to Assembly, 6409
- 1535 From Assembly, read first time, 1896; to committee, 2185; from committee, 3101; read second time, 3206; read third time, passed, to Assembly, 3388
- 1538 From Assembly, read first time, 4918; to committee, 5144; author's amendments, 6201; from committee, 6644; read second time, amended, re-referred to committee, 6657; from committee, 7611; read second time, amended, 7628; read third time, passed, to Assembly, 7766; Senate amendments concurred in, 7882
- 1539 From Assembly, read first time, 4252; to committee, 4400; from committee, 6198; read second time, amended, 6208; read third time, passed, to Assembly, 6475; Senate amendments concurred in, 6493
- 1541 From Assembly, read first time, 4587; to committee, 4771; from committee, 5514; read second time, 5589; to Consent Calendar, 5790; from Consent Calendar to third reading, 5893; read third time, passed, to Assembly, 6251
- 1542 From Assembly, read first time, 4920; to committee, 5144; author's amendments, 7034; returned by committee without action, 8057
- 1544 From Assembly, read first time, 4762; to committee, 5142; from committee, 5514; read second time, 5589; read third time, amended, 5899; read third time, passed, to Assembly, 6242; Senate amendments not concurred in, Assembly appoints Conference Committee, 6433; Senate appoints Conference Committee, 6434; Assembly adopts conference report, 6727; Senate adopts conference report, 7378
- 1547 From Assembly, read first time, 4587; to committee, 4771; from committee, 5552; read second time, amended, 5660; to Consent Calendar, 5790; from Consent Calendar to third reading, 5893; read third time, amended, 6220; read third time, refused passage, 6466, 6476; motion to reconsider, 6476; read third time, refused passage, 7845
- 1549 From Assembly, read first time, 4587; to committee, 4771; from committee, re-referred to committee, 5515; returned by committee without action, 8051
- 1550 From Assembly, read first time, 3949; to committee, 4027; returned by committee without action, 8054
- 1556 From Assembly, read first time, 3037; to committee, 3323; from committee, 5342; read second time, 5447; read third time, refused passage, 6235, 6259; motion to reconsider, 6254; read third time, passed, to Assembly, 6464, 6465
- 1557 From Assembly, read first time, 3949; to committee, 4027; from committee, re-referred to committee, 5920; from committee, 7117; read second time, 7128; read third time, passed, to Assembly, 7214
- 1562 From Assembly, read first time, 3824; to committee, 4026; from committee, 5920; read second time, 6001; read third time, passed, to Assembly, 6470, 6471
- 1564 From Assembly, read first time, 4918; to committee, 5144; author's amendments, 5652; from committee, 7747; read second time, amended, re-referred to committee, 7749; returned by committee without action, 8049
- 1566 From Assembly, read first time, 4918; to committee, 5144; author's amendments, 5911, 7419; returned by committee without action, 8062
- 1570 From Assembly, read first time, 2873; to committee, 2901; from committee, 5558; read second time, 5787; re-referred to committee, 5789; author's amendments, 5921; from committee, 7218; read second time, 7248; read third time, passed, to Assembly, 7491; Senate amendments concurred in, 7572



Volume 1

# Journal of the Assembly

Legislature of the State of California

1972 Regular Session

January 3, 1972, to January 5, 1973



**BOB MORETTI**  
Speaker of the Assembly

**CARLOS BEE**  
Speaker pro Tempore of the Assembly

**JACK R. FENTON**  
Majority Floor Leader

**BOB MONAGAN**  
Minority Floor Leader

**JAMES D. DRISCOLL**  
Chief Clerk of the Assembly

**Assembly Bill No. 1547:** By Assemblyman Sieroty—An act to add Section 55 to the Civil Code, relating to disabled persons.

Held at Desk by order of the Speaker pro Tempore.

**Assembly Bill No. 1548:** By Assemblyman Sieroty—An act to add Section 2924f to the Civil Code, relating to mortgages.

Held at Desk by order of the Speaker pro Tempore.

**Assembly Bill No. 1549:** By Assemblymen Burke, Duffy, Wakefield, and Campbell—An act to add Section 25952.5 to the Health and Safety Code, relating to abortions.

Held at Desk by order of the Speaker pro Tempore.

**Assembly Bill No. 1550:** By Assemblymen Burke, Duffy, Wakefield, and Campbell—An act to add Chapter 11.5 (commencing with Section 25956) to Division 20 of the Health and Safety Code, relating to abortions.

Held at Desk by order of the Speaker pro Tempore.

**Assembly Bill No. 1551:** By Assemblymen Burke, Hayes, Stull, Thomas, Beverly, Brathwaite, and Townsend—An act to amend Section 20017.8 of, and to add Section 21252.04 to, the Government Code, relating to the Public Employees' Retirement System.

Held at Desk by order of the Speaker pro Tempore.

**Assembly Bill No. 1552:** By Assemblymen Burke, Duffy, Wakefield, and Campbell—An act to amend Section 34.5 of the Civil Code, relating to minors.

Held at Desk by order of the Speaker pro Tempore.

**Assembly Bill No. 1553:** By Assemblyman Z'berg—An act to amend Section 3501 of the Government Code and to amend Section 13081 of, and to repeal Section 13085.1 of, the Education Code, relating to classified public school employees.

Held at Desk by order of the Speaker pro Tempore.

**Assembly Bill No. 1554:** By Assemblyman Z'berg—An act to add Chapter 3.7 (commencing with Section 5690) to Division 3 of the Business and Professions Code, relating to environmental grounds manager, and making an appropriation therefor.

Held at Desk by order of the Speaker pro Tempore.

**Assembly Bill No. 1555:** By Assemblyman Z'berg—An act to amend Section 74191 of the Government Code, relating to municipal courts.

Held at Desk by order of the Speaker pro Tempore.

**Assembly Bill No. 1556:** By Assemblyman Z'berg—An act to repeal Section 576 of the Streets and Highways Code, relating to state highways.

Held at Desk by order of the Speaker pro Tempore.

<i>Assembly Bill No.</i>	<i>Committee</i>
1540	Government Administration
1541	Government Administration
1542	Health
1543	Criminal Justice
1544	Health
1545	Government Administration
1546	Elections and Reapportionment
1547	Judiciary
1548	Finance and Insurance
1549	Health
1550	Health
1551	Retirement
1552	Health
1553	Education
1554	Commerce and Public Utilities
1555	Judiciary
1556	Transportation
1557	Judiciary
1558	Natural Resources and Conservation
1559	Planning and Land Use
1560	Transportation
1561	Natural Resources and Conservation
1562	Judiciary
1563	Natural Resources and Conservation
1564	Revenue and Taxation
1565	Elections and Reapportionment
1566	Elections and Reapportionment
1567	Elections and Reapportionment
1568	Elections and Reapportionment
1569	Elections and Reapportionment
1570	Elections and Reapportionment
1571	Elections and Reapportionment
1572	Elections and Reapportionment
1573	Elections and Reapportionment
1574	Elections and Reapportionment
1575	Government Administration
1576	Health
1577	Transportation
1578	Education
1579	Revenue and Taxation
1580	Revenue and Taxation
1581	Criminal Justice
1582	Environmental Quality
1583	Governmental Organization
1584	Welfare
1585	Revenue and Taxation
1586	Criminal Justice

**Committee on Finance and Insurance**

Assembly Chamber, June 14, 1972

Mr. Speaker: Your Committee on Finance and Insurance reports:  
AB No. 1369

With amendments with the recommendation: Amend, and do pass, as amended.

PIERSON, Chairman

Above bill ordered to second reading.

**Committee on Judiciary**

Assembly Chamber, June 16, 1972

Mr. Speaker: Your Committee on Judiciary reports:  
AB No. 1547

With amendments with the recommendation: Amend, and do pass, as amended.

WARREN, Chairman

Above bill ordered to second reading.

**REQUEST FOR UNANIMOUS CONSENT TO TAKE UP BILLS**

Mr. Deddeh was granted unanimous consent to take up Senate Bill No. 9 and Assembly Bill No. 406, without reference to file, for the purpose of reading the bills a second time and adopting the committee amendments at this time, that a rush order be placed upon the printing of the bills, and that Assembly Bill No. 406 be considered engrossed.

**SECOND READING OF BILLS BY UNANIMOUS CONSENT**

Senate Bill No. 9.—An act to amend Sections 29530, 29532, and 29533 of the Government Code, to amend Sections 99209, 99240, 99241, 99260, 99267, 99305, 99401, 99403, 99405, and 99407 of, to repeal Section 99275 of, and to add Section 99275 to, the Public Utilities Code, and to amend Sections 6052.5, 6357, 7102, 7204.5, 7264, and 8101.5 of, and to add Sections 6357.1, 6357.2, 7204.6, and 7264.1 to, the Revenue and Taxation Code, relating to sales and use taxes to finance public transportation systems, and declaring the urgency thereof, to take effect immediately.

Bill read second time.

**Consideration of Committee Amendments**

The following amendments, proposed by the Committee on Transportation, were read, and adopted:

**Amendment No. 1**

In line 1 of the title of the printed bill, as amended in Assembly June 13, 1972, after "amend", insert "Sections 20820 and 20826 of the Business and Professions Code, to amend".

**Amendment No. 2**

In line 3 of the title, after "99209," insert "99213,".

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Assembly Bill No. 1547—An act to add Section 55 to the Civil Code, relating to disabled persons.

Bill read second time.

#### Consideration of Committee Amendments

The following amendments, proposed by the Committee on Judiciary, were read, and adopted:

##### Amendment No. 1

On page 1, line 4, of the printed bill, after "give", insert "written".

##### Amendment No. 2

On page 2, line 4, strike out "Such", and insert "If the court finds the evidence of nonconformity clear and convincing, such".

##### Amendment No. 3

On page 2, line 9, strike out "irregardless", and insert "regardless".

##### Amendment No. 4

On page 2, after line 10, insert  
"(c) This section shall apply only to future construction or alteration of facilities."

Bill ordered reprinted, and returned to the second reading file.

Assembly Bill No. 1042—An act to amend Section 13468.1 of, and to add Section 13468.3 to, the Education Code, relating to school certificated employees.

Bill read second time, and ordered to third reading.

#### SENATE BILLS RETURNED TO SECOND READING FILE PURSUANT TO THE RULES

Pursuant to the Assembly Rules, the following Senate bills were this day on the second reading file:

Senate Bills Nos. 1149 and 461, ordered to the Consent Calendar.

#### SECOND READING OF SENATE BILLS

Senate Bill No. 266—An act to amend, repeal, and add Section 10666 of the Fish and Game Code, relating to refugees.

Bill read second time, and ordered to the Consent Calendar.

Senate Bill No. 1356—An act to amend Section 5010.1 of the Public Resources Code, relating to the state park system.

Bill read second time, and ordered to the Consent Calendar.

Senate Bill No. 635—An act to amend Sections 7332, 7342, 7351 and 7420 of, and to add Section 7402 to, the Business and Professions Code, relating to cosmetology.

Bill read second time, and ordered to third reading.

### Consideration of Committee Amendments

The following amendment, proposed by the Committee on Education, was read, and adopted:

#### Amendment No. 1

On page 3, line 29, of the printed bill, as amended in Assembly May 10, 1972, after "Code.", insert "A minimum of 50 percent of said appropriation shall be expended for purposes of planning."

Bill ordered reprinted, and to be re-referred to the Committee on Ways and Means.

### REQUEST FOR UNANIMOUS CONSENT TO TEMPORARILY SUSPEND THE RULES

Mr. Brown was granted unanimous consent that the Assembly Rules be temporarily suspended for the purpose of setting Assembly Bills Nos. 1697, 2118, 355, 508, 2119, and 2249 for hearing in the Committee on Ways and Means, on Wednesday, June 21, 1972.

### CONSIDERATION OF DAILY FILE ASSEMBLY BILLS RETURNED TO SECOND READING FILE PURSUANT TO THE RULES

Pursuant to the Assembly Rules, the following Assembly bills were this day on the second reading file:

Assembly Bills Nos. 934, 969, 1213, 1883, 73, 2054, 904, 2358, 1518, 2040, 200, 221, 227, 327, 380, 407, 531, 558, 635, 698, 1445, 1505, 1704, 1714, 1724, 1925, 1837, 1973, 2284, 2341, 2371, 1938, 1369, and 1547, ordered to third reading.

Assembly Bills Nos. 1454, 1435, 281, 592, 1263, 1292, 1603, and 945, ordered to the Consent Calendar.

### SECOND READING OF ASSEMBLY BILLS

Assembly Bill No. 1313—An act to add Chapter 4 (commencing with Section 3800) to Division 4.5 of Title 1 of the Government Code, relating to campaign contributions.

Bill read second time, and ordered to third reading.

Assembly Bill No. 2238—An act to amend Sections 6120 and 6831 of the Elections Code, relating to nomination of candidates, and declaring the urgency thereof, to take effect immediately.

Bill read second time, and ordered to third reading.

Note: On June 21, 1972, the action was rescinded whereby Assembly Bills Nos. 1313 and 2238 were read a second time, and ordered to third reading. See page 5236.

Assembly Bill No. 1571—An act to amend Section 9169 of the Elections Code, relating to elections.

Bill read second time.

### Consideration of Committee Amendments

The following amendments, proposed by the Committee on Elections and Reapportionment, were read, and adopted:

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Assembly Chamber, June 21, 1972

Mr. Speaker: Pursuant to your instructions, the Chief Clerk has examined:

AB No. 281

AB No. 1435

AB No. 1263

AB No. 1454

AB No. 1292

AB No. 1603

And reports the same correctly re-engrossed.

JAMES D. DRISCOLL, Chief Clerk

Above bills ordered to the Consent Calendar.

Assembly Chamber, June 21, 1972

Mr. Speaker: Pursuant to your instructions, the Chief Clerk has examined:

AJR No. 18

And reports the same correctly engrossed.

JAMES D. DRISCOLL, Chief Clerk

Above resolution ordered to the Consent Calendar.

Assembly Chamber, June 21, 1972

Mr. Speaker: Pursuant to your instructions, the Chief Clerk has examined:

AB No. 200

AB No. 1445

AB No. 1973

AB No. 221

AB No. 1704

AB No. 2040

AB No. 407

AB No. 1714

AB No. 2054

AB No. 531

AB No. 1724

AB No. 2284

AB No. 558

AB No. 1925

AB No. 969

AB No. 1369

AB No. 1938

And reports the same correctly re-engrossed.

JAMES D. DRISCOLL, Chief Clerk

Above bills ordered to third reading.

Assembly Chamber, June 21, 1972

Mr. Speaker: Pursuant to your instructions, the Chief Clerk has examined:

AB No. 380

AB No. 1213

AB No. 1547

AB No. 904

AB No. 1505

AB No. 1837

AB No. 934

AB No. 1518

And reports the same correctly engrossed.

JAMES D. DRISCOLL, Chief Clerk

Above bills ordered to third reading.

Assembly Chamber, June 21, 1972

Mr. Speaker: Pursuant to your instructions, the Chief Clerk has examined:

AB No. 178

AB No. 1357

And reports the same correctly re-engrossed.

JAMES D. DRISCOLL, Chief Clerk

Above bills ordered to third reading.

**Assembly Bill No. 1547**—An act to add Section 55 to the Civil Code, relating to disabled persons.

Bill read third time, and passed by the following vote:

**AYES**—Arnett, Badham, Bagley, Bee, Beverly, Brathwaite, Briggs, Burke, Burton, Chappie, Cline, Collier, Cory, Cullen, Davis, Deddeh, Dent, Duffy, Dunlap, Fenton, Foran, Gonsalves, Leroy F. Greene, Hayden, Hayes, Harvey Johnson, Karabian, Ketchum, Keysor, Knox, LaCoste, Lancaster, Lanterman, Lewis, MacDonald, Maddy, McAlister, McCarthy, Moorhead, Murphy, Powers, Priolo, Quimby, Ralph, Russell, Ryan, Seeley, Sieroty, Stull, Townsend, Vasconcellos, Wakefield, Warren, Waxman, Wilson, Wood, Z'berg, and Mr. Speaker—58.

**NOES**—None.

Bill ordered transmitted to the Senate.

**Assembly Bill No. 2010**—An act to add Article 13 (commencing with Section 17510) to Chapter 1 of Part 3 of Division 7 of the Business and Professions Code, relating to charitable solicitations.

Bill read third time, and passed by the following vote:

**AYES**—Arnett, Badham, Bagley, Barnes, Bee, Belotti, Beverly, Brathwaite, Briggs, Brown, Burke, Burton, Campbell, Chappie, Cline, Collier, Cory, Cullen, Davis, Deddeh, Dent, Duffy, Dunlap, Fenton, Foran, Gonsalves, Leroy F. Greene, Hayden, Hayes, Harvey Johnson, Ray B. Johnson, Karabian, Ketchum, Keysor, Knox, LaCoste, Lancaster, Lanterman, Lewis, MacDonald, Maddy, McAlister, McCarthy, Moorhead, Murphy, Powers, Priolo, Quimby, Ralph, Russell, Ryan, Seeley, Sieroty, Stacey, Stull, Townsend, Wakefield, Warren, Waxman, Wilson, Wood, Z'berg, and Mr. Speaker—63.

**NOES**—None.

Bill ordered transmitted to the Senate.

**Assembly Bill No. 1571**—An act to place specified constitutional amendments on the ballot, and declaring the urgency thereof, to take effect immediately.

Bill read third time.

#### Urgency Clause

Urgency clause read, and adopted by the following vote:

**AYES**—Arnett, Badham, Bagley, Bee, Beverly, Brathwaite, Briggs, Brown, Burke, Burton, Campbell, Chappie, Cline, Collier, Cory, Cullen, Davis, Deddeh, Dent, Duffy, Dunlap, Fenton, Foran, Gonsalves, Leroy F. Greene, Hayden, Hayes, Harvey Johnson, Karabian, Ketchum, Keysor, Knox, LaCoste, Lancaster, Lanterman, MacDonald, McAlister, McCarthy, Moorhead, Murphy, Powers, Priolo, Quimby, Ralph, Russell, Ryan, Seeley, Sieroty, Stacey, Stull, Townsend, Vasconcellos, Wakefield, Warren, Waxman, Wilson, Wood, Z'berg, and Mr. Speaker—59.

**NOES**—None.

The question being on the passage of the bill.

Bill passed by the following vote:

**AYES**—Arnett, Badham, Bagley, Bee, Beverly, Brathwaite, Briggs, Brown, Burke, Burton, Campbell, Chappie, Cline, Collier, Cory, Cullen, Davis, Deddeh, Dent, Duffy, Dunlap, Fenton, Foran, Gonsalves,



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MESSAGES FROM THE SENATE

Senate Chamber, December 1, 1972

Mr. Speaker: I am directed to inform your honorable body that the Senate on this day returns without further action:

AB No. 298  
AB No. 1566

DARRYL R. WHITE, Secretary of the Senate  
By J. Roy Gabriel, Assistant Secretary

Senate Chamber, December 1, 1972

Mr. Speaker: I am directed to inform your honorable body that the following died on the Senate file:

ACA No. 13

DARRYL R. WHITE, Secretary of the Senate  
By John W. Rovane, Chief Assistant Secretary

Senate Chamber, December 1, 1972

Mr. Speaker: I am directed to inform your honorable body that the following died on the Senate file:

AB No. 304  
AB No. 1250  
AB No. 1666

AB No. 1864  
AB No. 1906  
AB No. 2388

DARRYL R. WHITE, Secretary of the Senate  
By John W. Rovane, Chief Assistant Secretary

Senate Chamber, December 1, 1972

Mr. Speaker: I am directed to inform your honorable body that the Senate refused passage to:

AB No. 366  
AB No. 644  
AB No. 1100

AB No. 1112  
AB No. 1547

AB No. 1647  
AB No. 2167

DARRYL R. WHITE, Secretary of the Senate  
By John W. Rovane, Chief Assistant Secretary

Senate Chamber, December 1, 1972

Mr. Speaker: I am directed to inform your honorable body that the Senate refused adoption to:

ACA No. 25  
ACA No. 48

DARRYL R. WHITE, Secretary of the Senate  
By John W. Rovane, Chief Assistant Secretary

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- A.B. No.
- 1534 Introduced, held at desk, 1034; to committee, 1199; from committee without action, 8709
- 1535 Introduced, held at desk, 1034; to committee, 1199; from committee, 2264; read second time, 2398; engrossed, to Consent Calendar, 2405; passed, to Senate, 2637; from Senate, 4425; enrolled, to Governor, 4591; Chapter 172
- 1536 Introduced, held at desk, 1035; to committee, 1199; from committee without action, 8688
- 1537 Introduced, held at desk, 1035; to committee, 1199; from committee without action, 8705
- 1538 Introduced, held at desk, 1035; to committee, 1199; from committee, 4717; amended, 4751; engrossed, re-referred, 5020; from committee, 5541; read second time, 5632; passed, to Senate, 5927; from Senate, with amendments, 8181; amendments concurred in, 8185; enrolled, to Governor, 8674; Chapter 1417
- 1539 Introduced, held at desk, 1035; to committee, 1199; withdrawn and re-referred, 4207; from committee, 4295; amended (author's), 4296; engrossed, re-referred, 4531; from committee, 4991; read second time, 5049; passed on file, 5183; passed, to Senate, 5403; from Senate, with amendments, 7117; amendments concurred in, 7175; enrolled, to Governor, 7432; Chapter 1110
- 1540 Introduced, held at desk, 1035; to committee, 1200; from committee without action, 8697
- 1541 Introduced, held at desk, 1035; to committee, 1200; withdrawn and re-referred, 1696; from committee, 2217; amended (author's), 2220; engrossed, re-referred, 2259; from committee, 3660; amended, 3760; re-engrossed, 3815; read second time, 3830; passed on file, 4231; to inactive file, 4357; from inactive file, 5001; passed on file, 5091; to inactive file, 5170; considered without reference to file, read third time, amended, 5300; re-engrossed, to Consent Calendar, 5324; passed, to Senate, 5738; from Senate, 6843; enrolled, to Governor, 7206; vetoed, 7449; veto sustained, 7527
- 1542 Introduced, held at desk, 1035; to committee, 1200; withdrawn and re-referred, 1731; from committee, 4905; amended, 4946; engrossed, 5019; read second time, 5030; passed on file, 5482; to inactive file 5588; from inactive file, 5874; passed, to Senate, 5959; from Senate without action, 8753
- 1543 Introduced, held at desk, 1035; to committee, 1200; from committee without action, 8688
- 1544 Introduced, held at desk, 1035; to committee, 1200; from committee, amended (author's), 1841; engrossed, re-referred, 1937; from committee, 4385; amended (author's), 4386; re-engrossed, re-referred, 4530; from committee, re-referred, 4669; unanimous consent granted, consider re-engrossed, 5300; from committee, 5309; amended, re-referred, 5312; from committee, 5620; read second time, to Consent Calendar, 5712; passed, to Senate, 5855; from Senate, with amendments, 6839; amendments refused concurrence, to conference, 7063; Assembly appoints Conference Committee, 7091; Senate appoints Conference Committee, 7112; Assembly adopts conference report, 7349; Senate adopts conference report, 7778; enrolled, to Governor, 7983; Chapter 1164
- 1545 Introduced, held at desk, 1035; to committee, 1200; from committee without action, 8697
- 1546 Introduced, held at desk, 1035; to committee, 1200; from committee, 4411; amended (author's), 4412; engrossed, re-referred, 4531; from committee without action, 8692
- 1547 introduced, held at desk, 1036; to committee, 1200; from committee, 4996; amended, 5083; read second time, 5140; engrossed, 5209; passed, to Senate, 5734; from Senate, passage refused, 8751
- 1548 Introduced, held at desk, 1036; to committee, 1200; from committee without action, 8695
- 1549 Introduced, held at desk, 1036; to committee, 1200; from committee, 4405; Art. IV, Sec. 8(a) of Constitution dispensed with, unanimous consent granted, consider engrossed, 4541; amended, re-referred, 4543; from committee, 5109; amended, 5156; read second time, 5223; re-engrossed, 5249; passed, to Senate, 5735; from Senate without action, 8753





CALIFORNIA LEGISLATURE

AT SACRAMENTO

1973-74 REGULAR SESSION

ASSEMBLY FINAL HISTORY

SYNOPSIS OF

ASSEMBLY BILLS, CONSTITUTIONAL AMENDMENTS, CONCURRENT  
AND JOINT RESOLUTIONS, AND HOUSE RESOLUTIONS

Assembly Convened January 8, 1973

Recessed April 12, 1973

Reconvened April 23, 1973

Recessed June 29, 1973

Reconvened August 6, 1973

Recessed September 14, 1973

Reconvened December 4, 1973

Recessed December 6, 1973

Reconvened January 7, 1974

Recessed April 4, 1974

Reconvened April 15, 1974

Recessed May 23, 1974

Reconvened June 5, 1974

Recessed June 28, 1974

Reconvened August 5, 1974

Recessed August 31, 1974

Reconvened September 30, 1974

Adjourned October 2, 1974

Adjourned Sine Die November 30, 1974

Legislative Days . . . . . 239

HON LEO T MCCARTHY  
*Speaker*

HON. CARLOS BEE  
*Speaker pro Tempore*

HON. HOWARD I BERMAN  
*Majority Floor Leader*

HON. ROBERT G. BEVERLY  
*Minority Floor Leader*

*Compiled Under the Direction of*  
JAMES D DRISCOLL  
*Chief Clerk*

GUNYOR ENGLE  
*History Clerk*

## A.B. No. 2471—Sieroty.

An act to add Section 55 to the Civil Code, relating to disabled persons

1973

- May 15—Read first time  
 May 16—Referred to Com on JUD To print  
 May 21—From printer May be heard in committee June 20

1974

- Jan 7—From committee Do pass (Ayes 7 Noes 1)  
 Jan 8—Read second time To third reading  
 Jan 10—Read third time, passed, and to Senate (Ayes 69 Noes 1 Page 9614)  
 Jan 10—In Senate Read first time  
 Jan 16—Referred to Com on JUD  
 Mar 14—In committee Set, first hearing Hearing canceled at the request of author  
 Mar 19—In committee Set, second hearing Hearing canceled at the request of author  
 April 22—From committee chairman, with author's amendments Amend, and re-refer to committee Read second time, amended, and re-referred to Com on JUD  
 Aug 7—From committee Amend, and do pass as amended (Ayes 9 Noes 1)  
 Aug 8—Read second time, amended, and to third reading  
 Aug 23—Read third time, passed, and to Assembly (Ayes 26 Noes 0 Page 13335)  
 Aug 23—In Assembly Concurrence in Senate amendments pending  
 Aug 26—Senate amendments concurred in To enrollment (Ayes 66 Noes 0 Page 17398)  
 Aug 29—Enrolled and to the Governor at 5 p m  
 Sept 26—Approved by the Governor  
 Sept 26—Chaptered by Secretary of State—Chapter 1443

ASSEMBLY BILL

No. 2471

Introduced by Assemblyman Sieroty

May 15, 1973

REFERRED TO COMMITTEE ON JUDICIARY

*An act to add Section 56 to the Civil Code, relating to disabled persons.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2471, as introduced, Sieroty (Jud.). Disabled persons. Provides procedure for obtaining injunction against further construction and operation of a public or private facility not conforming to building requirements with respect to physically disabled persons.

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

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

1 SECTION 1. Section 56 is added to the Civil Code, to  
2 read:  
3 56. (a) Notwithstanding any other provision of law, a  
4 physically disabled person may give written notice to the  
5 owner of any private facility, or, in the case of a public  
6 facility, to the person designated in Section 4453 of the  
7 Government Code or in Section 19958 of the Health and  
8 Safety Code, that such facility contains unauthorized  
9 deviations from the requirements of Sections 54 and 54.1  
10 of this code, Chapter 7 (commencing with Section 4450)  
11 of Division 5 of Title 1 of the Government Code, or Part

1 5.5 (commencing with Section 19955) of Division 13 of  
2 the Health and Safety Code.  
3 (b) If such deviation is not rectified within 90 days of  
4 such notice, a physically disabled person may bring an  
5 action for an injunction against further construction and  
6 operation therein of the nonconforming facility until the  
7 deviation is corrected. If successful in obtaining an  
8 injunction, the physically disabled person may be  
9 awarded reasonable attorney's fees and court costs,  
10 regardless of whether the facility in question is public or  
11 private in character.

O



# NATIONAL REHABILITATION ASSOCIATION



# CALIFORNIA COORDINATING COUNCIL

## OFFICERS

Chairmen  
A. Milton Miller  
9025 Wilshire Blvd  
Suite 414  
Beverly Hills,  
Ca. 90211

Vice Chairmen  
Mary Williamson  
San Jose, Calif.

Treasurer  
Ray Williams  
Sacramento

Secretary  
Saralea Altman  
Los Angeles

Delegates-At-Large  
Robert Hawkins  
Sacramento  
Charles Murphy  
Pleasant Hill

## CHAPTERS

Southern California  
Los Angeles

Sacramento Valley  
Sacramento

San Joaquin Valley  
Fresno

San Diego

San Bernardino  
Riverside

Los Padres  
Santa Barbara

Coast Counties  
San Jose

East Bay  
Oakland

San Mateo

Sacramento State  
University Campus

HARBOR CHAPTER  
Long Beach

R.C.A.C.

San Francisco

May 30, 1973

Assemblyman Charles Warren  
State Capitol Building  
Sacramento, California

Assemblyman Warren:

The California Coordinating Council of the National Rehabilitation Association on behalf of its statewide membership wishes to urge your YES vote for AB2471 when it is heard in the Assembly Judiciary Committee.

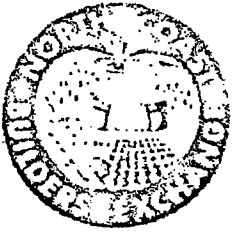
While California has some of the most progressive laws in terms of removing mobility barriers, there has been a constant problem of enforcement of those laws. Public education of the architects and builders has helped, but it is not enough. The disabled in the State need the courts to back them up in their efforts to move freely in their community. However, attorneys and courts cost money and according to Federal and State statistics, the disabled are among the most financially disadvantaged. For this reason, AB2471 is needed to allow the disabled to bring action against those builders in violation of the law without the prohibitive burden of attorney's fees and court costs. This would put the disabled in the State on a more equal footing with their able-bodied peers.

Respectfully,

Saralea Altman  
Legislative Chairwoman  
California Coordinating Council  
2385 Roscomare Rd. #21  
Los Angeles, California 90024

SA:bn

cc: Assemblyman Alan Steroty



# North Coast Builders Exchange

P. O. BOX 6025 . . . . . 3559 AIRWAY DRIVE  
542-9502 A/C 707  
SANTA ROSA, CALIFORNIA 95406

July 5, 1978

JOHN ANDERSON, Pres.  
Rapp Construction Co.  
Santa Rosa

JOHN LARSEN, Vice Pres.  
Stolting Electric  
Santa Rosa

LEN SILVA, Sec.-Treas.  
Preco Erection Co.  
Sonoma

## DIRECTORS

G. W. McDERMOTT  
Western Builders Roofing  
Santa Rosa

BOB BARTLEY  
Bartley Pump  
Santa Rosa

BERT BROWN  
Kelly-Moore Paint  
Santa Rosa

DICK DOWD  
Don Dowd Co.  
Sebastopol

JOHN GERVIN  
Bank of California  
Santa Rosa

JOHN KING  
Empire Plumbing  
Santa Rosa

WALLY LEISER  
Leiser Landscaping  
Santa Rosa

JIM MITCHELL  
Mitchell & Heryford  
Santa Rosa

BOB RATH  
Best & Feaks Inc.  
Sebastopol

LARRY ROBBINS  
General Contractor  
Santa Rosa

JOHN SIMSLES  
Christensen & Foster  
Santa Rosa

JACK SMITH  
Jack Smith Glass  
Santa Rosa

DON WELLS  
Aves. Corp.  
Santa Rosa

## HONORARY LIFE MEMBERS

ROBERT W. CLARK  
JULIAN W. KIEHL

Assemblyman Sieroty  
State Capitol Building  
Sacramento, CA

RE: AB 2471

The North Coast Builders Exchange and Independent Exchanges of California are in opposition to AB 2471 as written. The responsibility here would leave a contractor in a very difficult position if he had been directed to build a structure according to engineering standards, plans checks, code compliances, environmental impact reports and everything else only to find that those who were responsible for design or knowledge of this must in present day construction have failed to catch it either in plans check or in errors and omissions.

It would seem that the contractor should also be rewarded for anyone directing him to do a job that is not in compliance with the Health and Safety Code. We therefore would recommend that liability be shifted here from the contractor to those who are basically liable for the design and approval.

Chas. Paul Corbin, Legislative Advocate  
Independent Exchanges include Sacramento,  
North Coast, Peninsula, Oakland & Stockton

cc: C. Henderson, Secretary, Assembly Judiciary Comm.

**ASSEMBLY COMMITTEE ON JUDICIARY**

**CHARLES WARREN, CHAIRMAN**

**BILL DIGEST**

Bill: AB 2471

Hearing Date: 8/14/73

AUTHOR: Sieroty

SUBJECT: Physically Handicapped; Access to Buildings

BACKGROUND:

Under existing law, all buildings and facilities built since 1968 using state or local funds, and all gas stations, office buildings, shopping centers, hospitals, convalescent homes, hotels, motels, restaurants and other places of amusement built since 1970, must insure reasonable access to the physically handicapped. All such buildings and facilities built before the applicable dates must comply with the necessary standards whenever they alter, repair or add to the building or facility.

Enforcement of this law presently rests with the Director of General Services if state funds were used. It rests with the building department of the applicable local government if local funds were used. Unauthorized deviations must be rectified within 90 days after discovery.

BILL DESCRIPTION:

This bill provides that a physically disabled person can give written notice of a deviation to the owner of a private facility, or to the person responsible for enforcing the law if the deviation is in a public facility. If the deviation is not corrected within 90 days, the physically disabled person can then seek an injunction against further construction or operation of the nonconforming facility until the deviation is corrected.

The bill also provides that if the person is successful in obtaining an injunction the court can award him reasonable attorney's fees and court costs.

CONTINUED

AB 2471 - page 2

SUPPORT:

National Rehabilitation Association.

OPPOSITION:

North Coast Builders Exchange.

CITY COUNCIL.  
ROBERT A QUINN  
MAYOR  
JAMES R HUGHES D D S  
THOMAS A DRAKES  
R WILLIAM SHIREY  
FLORUS C WILLIAMS  
BARBARA HOLLISTER  
GILBERT D PRESTON JR



## CITY OF PACIFIC GROVE

PACIFIC GROVE, CALIFORNIA 93950  
TELEPHONE (408) 375-9861

GARY W BALES  
CITY MANAGER

WILLIAM S PITT  
DIRECTOR OF FINANCE  
CITY CLERK AND TREASURER

THEODORE G MORRIS  
CITY ATTORNEY

March 11, 1974

Senator Alfred H. Song  
Chairman, Senate Committee on  
Judiciary  
State Senate  
State Capitol  
Sacramento, CA 95814

Re: AB 2471

Dear Senator Song:

The City of Pacific Grove is opposed to AB 2471 pertaining to building requirements for physically disabled.

We concur with the concept that all new facilities should be constructed so as to provide easy access and use by the physically disabled.

AB 2471 as we understand it would permit a physically disabled person to give a written notice to the owner of any existing private or public facility that the building deviates from building requirements for physically handicapped persons. We object to the concept that such notice will require substantial expense resulting from modification to existing buildings.

As we understand this measure, we would urge the opposition of your committee.

Sincerely yours,

*James R. Hughes, D.D.S.*  
JAMES R. HUGHES, D.D.S.  
Chairman, Legislative Committee

JRH/bjv

cc: Senator Donald L. Grunsky  
Assemblyman Robert Wood  
League of California Cities



Scenic Pacifica

March 18, 1974

The Honorable Alfred H. Song  
Chairman, Senate Judiciary Committee  
State Capitol  
Sacramento, California 95814

Subject: AB 2471 (Building Requirements for the Physically Disabled)

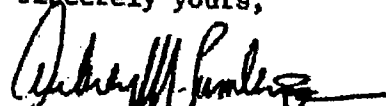
Dear Senator Song:

The City of Pacifica opposes the enactment of Assembly Bill 2471 and requests your support in opposition of AB 2471. The City opposes the bill for the following reasons:

1. Previous legislation has mandated that any private or public facility constructed after July 1, 1970 which contains deviations from building requirements with respect to the physically handicapped is not permitted under the law; therefore, public facilities constructed since that date must make allowances for the physically disabled.
2. It appears that the regulations contained within AB 2471 pertaining to the building requirements for the physically handicapped would apply to those public facilities constructed prior to July 1, 1970. This would place a severe financial burden on many local governmental agencies.

Your cooperations and assistance in this matter is appreciated.

Sincerely yours,

  
Aubrey N. Lumley III  
Mayor

AMENDED IN SENATE APRIL 22, 1974

CALIFORNIA LEGISLATURE—1973-74 REGULAR SESSION

ASSEMBLY BILL

No. 2471

Introduced by Assemblyman Sieroty

May 15, 1973

REFERRED TO COMMITTEE ON JUDICIARY

*An act to add Section 56 55 to the Civil Code, relating to disabled persons.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2471, as amended, Sieroty (Jud.). Disabled persons. Provides procedure for obtaining injunction against further construction and operation of a public or private facility not conforming to building requirements with respect to physically disabled persons.

*Provides that in any action to enforce specified provisions of law relating to construction and operation of public or private facilities not conforming to building requirements with respect to physically disabled persons, prevailing party is entitled to reasonable attorney's fees.*

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

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

1 SECTION 1. Section 56 is added to the Civil Code, to  
2 SECTION 1. Section 55 is added to the Civil Code, to  
3 read:  
4 55. In any action to enforce the provisions of Sections

1 54 and 54.1 of this code, Chapter 7 (commencing with  
2 Section 4450) of Division 5 of Title 1 of the Government  
3 Code, or Part 5.5 (commencing with Section 19955) of  
4 Division 13 of the Health and Safety Code, the prevailing  
5 party shall be entitled to reasonable attorney's fees.  
6 read:

7 56. (a) Notwithstanding any other provision of law, a  
8 physically disabled person may give written notice to the  
9 owner of any private facility, or, in the case of a public  
10 facility, to the person designated in Section 4453 of the  
11 Government Code or in Section 19958 of the Health and  
12 Safety Code, that such facility contains unauthorized  
13 deviations from the requirements of Sections 54 and 54.1  
14 of this code, Chapter 7 (commencing with Section 4450)  
15 of Division 5 of Title 1 of the Government Code, or Part  
16 5.5 (commencing with Section 19955) of Division 13 of  
17 the Health and Safety Code.

18 (b) If such deviation is not rectified within 90 days of  
19 such notice, a physically disabled person may bring an  
20 action for an injunction against further construction and  
21 operation therein of the nonconforming facility until the  
22 deviation is corrected. If successful in obtaining an  
23 injunction, the physically disabled person may be  
24 awarded reasonable attorney's fees and court costs,  
25 regardless of whether the facility in question is public or  
26 private in character.



SENATE COMMITTEE ON JUDICIARY

BACKGROUND INFORMATION

AB2471

1. Source

- (a) What group, organization, governmental agency, or other person, if any, requested the introduction of the bill?

*Mason Ave, LA Atty  
Nathaniel N. Chahlikian/Asm.*

- (b) Which groups, organizations, or governmental agencies have contacted you in support of, or in opposition to, your bill?

*NRA - support*

- (c) If a similar bill has been introduced at a previous session of the Legislature, what was its number and the year of its introduction?

*AB1547 (1972) but this bill deletes the objectional language relating to bond exemption found at p. 2 l. 11-15 of the attached copy.*

2. Purpose

What problem or deficiency under existing law does the bill seek to remedy?

*Lack of enforceability of non-compliance with laws guaranteeing access to public buildings to physically-disabled persons.*

If you have any further background information or material relating to the bill, please enclose a copy of it or state where the information or material is available.

PLEASE COMPLETE THIS FORM AND RETURN IT TO THE SENATE COMMITTEE ON JUDICIARY, ROOM 2046 AS SOON AS POSSIBLE. IN ANY CASE, PLEASE RETURN IT NOT LATER THAN 14 DAYS AFTER RECEIPT.

AB 2471 (Sieroty)  
As amended April 22  
Civil Code

A  
R  
  
2  
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1

DISABLED PERSONS  
-ACCESS TO FACILITIES-

HISTORY

Source: National Rehabilitation Association

Prior Legislation: None

Support: Unknown

Opposition: North Coast Builders Exchange

DIGEST

Provides that the prevailing party is entitled to reasonable attorney's fees in any action to enforce any of the following provisions of existing law relating to the construction and operation of public or private facilities not conforming to existing requirements with respect to physically disabled persons:

- (1) The provisions guaranteeing equal rights to the full and free use of and access to public facilities and private facilities to which the general public is invited (Secs. 54 & 54.1, Civ. C.).
- (2) The provisions requiring that all public buildings, structures, sidewalks, curbs, and related facilities constructed with state, county, or municipal funds be accessible to physically handicapped persons (Ch. 7 (commencing with Sec. 4450), Div. 5, Title 1, Gov. C.).
- (3) The provisions requiring that public accommodations or facilities constructed in this state with private funds allow access by physically handicapped persons (Pt. 5.5

(more)

A  
B  
2  
4  
7  
1

(commencing with Sec. 19955), Div. 13, H.  
& S. C.).

PURPOSE

Allow the prevailing party in an action to enforce provisions relating to access to facilities by physically disabled persons to recover reasonable attorney fees.

COMMENT

1. In 1968, the existing provisions of the Government Code which provide that public buildings constructed with public funds would thereafter be built so as to be usable by the physically handicapped were enacted. The following year a series of provisions in the Health and Safety Code were enacted to insure that access to public accommodations and facilities built with private funds would also adhere to the provisions of the Government Code. Two years later, the Legislature, by amending the provisions of the Government Code, extended the requirement that buildings and facilities constructed with public funds be accessible to the physically handicapped, so as to encompass structures, sidewalks, curbs, and related facilities. The Health and Safety Code provisions were amended in 1972 to include hospitals and any curbs or sidewalks intended for public use that are constructed with private funds. The Attorney General has concluded that the last amendment applies regardless of whether the sidewalks or curbs are constructed adjacent to buildings financed from state or local sources (57 Ops. Cal. Atty. Gen. 186 (April 16, 1974)).

This bill entitles the prevailing party, in an action to enforce these provisions, to reasonable attorney's fees.

WHILE THE PROVISIONS OF THE CIVIL CODE SPECIFY A MISDEMEANOR PENALTY FOR FAILURE TO COMPLY, NONE OF THE PROVISIONS APPEARS TO CONFER A RIGHT TO ENFORCE THE ACCESS PROVISIONS BY A CIVIL ACTION.

# City Opposes Legislation to Assist In Enforcing Laws Aiding Disabled

By Johanna Neuman

Efforts to make life easier for disabled and handicapped persons have met with limited success recently from the city of Los Angeles.

Last week, a city council committee recommended city opposition to a state bill that would provide for the award of reasonable attorney's fees in litigation brought to force compliance with code provisions dealing with the handicapped.

The bill, AB 2471, by Alan Sieroty, D-Beverly Hills, would allow attorney's fees for the prevailing side in litigation brought to enforce laws requiring private and public buildings to provide facilities for the physically disabled.

Sieroty, who authored many of

the building requirements now on the books, feels the bill is needed because physically handicapped persons, as a class, do not have the funds necessary to engage in costly and lengthy litigation.

The council's State, County and Federal Affairs Committee, which adopted the recommendation of its Legislative Advisory Committee, voted to oppose the measure because it would encourage increased litigation.

The measure, which is set for public hearing before the Senate Judiciary Committee June 18, is intended to do just that, and a vote of support from the full city council is not unlikely.

Meanwhile, the city council is being sued by one local attorney over its failure to provide adequate

facilities for disabled and elderly persons at polling places manned by the city.

Mason H. Rose V, of the Los Angeles law firm of Kindel and Anderson, filed a civil complaint earlier this year against the 15 city councilmen, including now-Superior Court Judge Billy G. Mills.

The class action suit was brought on behalf of Jacqueline Selph, the Easter Seal Society for Crippled Children and Adults of Los Angeles County, the California Association of the Physically Handicapped, Inc., the California Paralyzed Veterans Association, and "all others similarly situated."

In the complaint, Rose, who is himself confined to a wheelchair, alleges that by failing to provide adequate parking facilities, curb ramps and polling booths, the city is depriving disabled and elderly persons of their constitutional right to vote.

The city contends that disabled persons are not deprived of their voting franchise because they can vote by a absentee ballot or in the city clerk's elections division.

But Rose, who was injured in a Marine jet crash in 1965, counters

Please turn to page 12

Continued from Page 1

that City Hall, which houses the elections division on its 22nd floor, is totally inaccessible to persons in wheelchairs, and further that absentee balloting is not mentioned in the constitution.

"If absentee balloting is satisfactory for the handicapped, then it's satisfactory for everyone," said Rose, who notes that such ballots have to be mailed five days before an election.

"It is just not an equal right to vote. That's like requiring blacks to vote five days before whites do," he adds, arguing that many persons do not decide how to vote until the very last days of a campaign.

The law suit, in which both parties recently submitted applications for summary judgment to U.S. District Judge David Williams, asks for general and punitive damages, as well as an injunction against repetition of the alleged wrong.

The specific incident that launched the case involved Mrs. Selph, who is a paraplegic and a member of the board of Easter Seal Society.

In the municipal election held last May 29, Mrs. Selph attempted to vote at a North Hollywood polling place but was unable to do so because of two cement steps separating her from the ballot box, according to the complaint.

Mrs. Selph contacted Rose, who wrote to the City Clerk Rex Layton asking that all polling places have at least one main entrance on the same level with the sidewalk or at least ramped, and that doorways be a minimum of 48 inches wide to allow for the turning radius of a wheelchair.

That letter was referred to the council's Charter and Administrative Code Committee, where it remains, pending the outcome of the lawsuit.

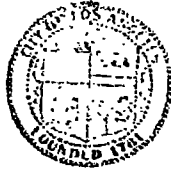
Following that action, Rose filed suit against the city council, and says he is hopeful it will be settled

in 60 to 90 days.

"One out of 10 citizens in the city of Los Angeles has a severe physical disability which limits his or her mobility," he says. "Each polling place should be made accessible, because to require the handicapped voter" to go through any procedure not required of other voters "diminishes his or her right to an equal opportunity to vote."

CITY OF LOS ANGELES  
CALIFORNIA

REX E. LAYTON  
CITY CLERK



OFFICE OF  
CITY CLERK  
ROOM 305, CITY HALL  
LOS ANGELES, CALIF. 90012  
465-5705

WHEN MAKING INQUIRY  
RELATIVE TO THIS FILE NO.  
REFER TO FILE NO.

72-4100, S 300

TOM BRADLEY  
MAYOR

May 30, 1974

CITY POSITION ON STATE LEGISLATION - OPPOSE AB 2471

I HEREBY CERTIFY that the attached State, County and  
Federal Affairs Committee report was adopted by the  
Los Angeles City Council at its meeting held May 30, 1974.

REX E. LAYTON, CITY CLERK

By

Deputy

mls  
Attachment

TO THE COUNCIL OF THE  
CITY OF LOS ANGELES

Your STATE, COUNTY AND FEDERAL AFFAIRS Committee

reports as follows:

Consideration has been given to the following report from the Committee on Proposed Legislation, Legislative Advisory Committee and the State, County and Federal Affairs Committee recommends the following position be included in the City's Legislative Program:

STATE LEGISLATION

OPPOSE AB 2471 (Sieroty) and/or any other legislation, which would provide that in any action to enforce specified provisions of law relating to construction and operation of public or private facilities not conforming to building requirements with respect to physically disabled persons, the prevailing party is entitled to reasonable attorney's fees. It was indicated that this measure would lead to increasing litigation against the City relative to the adequacy of facilities provided to accommodate handicapped persons.

Respectfully submitted,

STATE, COUNTY AND FEDERAL AFFAIRS  
COMMITTEE



City Council of the  
City of Los Angeles

KEN SPIKER  
CHIEF LEGISLATIVE ANALYST

June 17, 1974


Assemblyman Alan Sieroty  
Room 2140 State Capitol  
Sacramento, Ca. 95814

Dear Assemblyman Sieroty:

The City Council of the City of Los Angeles at its meeting of May 30, 1974 took action to oppose your measure AB 2471. Attached is a copy of that action.

If we may answer any questions or be of any assistance, please contact me or Jim Williams at 446-0759.

Yours very truly,

  
Norman D. Boyer  
Legislative Representative

NDB/lv

cc: Senator Alfred H. Song, Chairman  
Senate Judiciary Committee  
All Members of the Senate Judiciary Committee

AB 2471      June 18, 1974

SUPPORT:

Mason Rose - Attorney - National Assox. of Physically  
Handicapped  
National Easter Seal Assoc.  
Rolling Cills - Councilman



AMENDED IN SENATE AUGUST 8, 1974

AMENDED IN SENATE APRIL 22, 1974

CALIFORNIA LEGISLATURE—1973-74 REGULAR SESSION

ASSEMBLY BILL

No. 2471

Introduced by Assemblyman Sieroty

May 15, 1973

REFERRED TO COMMITTEE ON JUDICIARY

*An act to add Section 55 to the Civil Code, relating to disabled persons.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2471, as amended, Sieroty (Jud.). Disabled persons. Provides *Specifies that in any an action for an injunction to enforce specified provisions of law relating to construction and operation of public or private facilities not conforming to building requirements with respect to physically disabled persons; may be brought. Specifies that prevailing party is entitled to reasonable attorney's fees.*

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

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

1 SECTION 1. Section 55 is added to the Civil Code, to  
2 read:  
3 55. ~~In any action to enforce the provisions of Sections~~  
4 55. Any person who is aggrieved or potentially  
5 aggrieved by a violation of Section 54 or 54.1 of this code,  
6 Chapter 7 (commencing with Section 4450) of Division 5

1 of Title 1 of the Government Code, or Part 5.5  
2 (commencing with Section 19955) of Division 13 of the  
3 Health and Safety Code may bring an action to enjoin the  
4 violation. The prevailing party in the action shall be  
5 entitled to recover reasonable attorney's fees.  
6 ~~54 and 54.1 of this code, Chapter 7 (commencing with~~  
7 ~~Section 4450) of Division 5 of Title 1 of the Government~~  
8 ~~Code, or Part 5.5 (commencing with Section 19955) of~~  
9 ~~Division 13 of the Health and Safety Code, the prevailing~~  
10 party shall be entitled to reasonable attorney's fees.

O

DATE TYPED	8-9-74
BILL NUMBER	AB-2471
AUTHOR	Sieroty
AMENDED COPY	8-8-74

DATE TYPED: 8-9-74

BILL NUMBER: AB-2471

AUTHOR: Sieroty

AMENDED COPY: 8-8-74

\*\*\*\*\*  
 \*  
 \*  
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**POSITIONS**

- NEUTRAL: General Services
- SUPPORT: Department of Rehabilitation
- NEUTRAL: California Highway Patrol

**DIGEST** This bill, relating to disabled persons, would specify that in an action for an injunction to enforce specified provisions of the law relating to construction and operation of a public or private facility not conforming to building requirements with respect to physically disabled persons may be brought. It would further specify that the prevailing party would be entitled to reasonable attorney's fees.

**FISCAL EFFECT:** Appropriation, no. Fiscal Comm., no.

**NOTE:** The Legislature has passed several laws starting in 1968 requiring access by the physically handicapped to buildings and other facilities. Enforcement of these laws has been very weak. There was some earlier concern by General Services and the California Highway Patrol that the original version of this bill could result in a number of nuisance-type complaints and/or injunctions against the State or other concerned parties. All new state facilities do have ramps and easy access, but there are approximately 80 percent of some facilities that have not been modified. Control procedures are necessary, so that they may be incorporated into the administrative controls of an existing department and complaints be required to be filed therein, and an investigating procedure established, and the necessary corrective measures taken to solve the problems at hand; without the immediate threat of an injunction.

BERNARD CZESLA  
CHIEF DEPUTY

J. GOULD  
OWEN K. KUHS  
RAY H. WHITAKER

KENT L. DECHAMBEAU  
ERNEST H. KUNZI  
STANLEY M. LOURIMORE  
SHERWIN C. MACKENZIE, JR.  
EDWARD F. NOWAK  
EDWARD K. PURCELL  
PRINCIPAL DEPUTIES

ANN M. MACKEY  
PRINCIPAL DEPUTY  
LOS ANGELES OFFICE

3021 STATE CAPITOL  
SACRAMENTO 95814

110 STATE BUILDING  
LOS ANGELES 90012

# Legislative Counsel of California

GEORGE H. MURPHY

Sacramento, California  
August 30, 1974

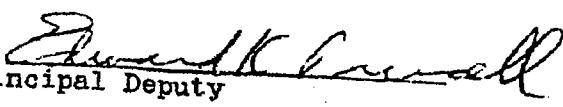
Honorable Ronald Reagan  
Governor of California  
Sacramento, California

Assembly Bill No. 2471

Dear Governor Reagan:

Pursuant to your request we have reviewed the above-numbered bill authored by Assemblyman Sieroty and, in our opinion, the title and form are sufficient and the bill if approved by the Governor will be constitutional. The digest on the printed bill as adopted correctly reflects the views of this office.

Very truly yours,  
George H. Murphy  
Legislative Counsel

By   
Principal Deputy

Copy to Honorable Alan Sieroty  
pursuant to Joint Rule 34.

GERALD ROSE ADAMS  
DAVID D. ALVES  
MARTIN L. ANDERSON  
CARL M. ARNOLD  
CHARLES C. ASBILL  
JAMES L. ASHFORD  
JERRY L. BASSETT  
EDWARD RICHARD COHEN  
JOHN CORZINE  
BEN E. DALE  
DENNIS W. DE GUIR  
CLINTON J. DEWITT  
JERALD S. DICK  
ROBERT CULLEN DUFFY  
LAWRENCE H. FEIN  
JOHN FOSSETTE  
HARVEY J. FOSTER  
ROBERT D. GRONKE  
JAMES W. HEINZER  
THOMAS R. HEUER  
L. DOUGLAS KINNEY  
VICTOR KOZIELESKI  
JAMES A. MARSALE  
EUGENE W. MCCABE  
PETER F. MELNICOE  
MIRKO A. MILICEVICH  
ROSE OLIVER  
TRACY O. POWELL, II  
MARGUERITE ROTH  
MARY SHAW  
ARTHUR R. SILEN  
ROY K. SIMMONS  
RUSSELL L. SPARLING  
JOHN T. STUDEBAKER  
BRIAN L. WALKUP  
THOMAS D. WHELAN  
DAVID E. WHITTINGTON  
JIMMIE WING  
CHRISTOPHER ZIRKLE  
DEPUTIES

STATE CAPITOL  
SACRAMENTO, CALIFORNIA 95814  
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DISTRICT OFFICE  
445 SOUTH BEVERLY DRIVE  
BEVERLY HILLS, CALIFORNIA 90212  
(310) 277-6955  
LARRY BRISKIN  
ADMINISTRATIVE ASSISTANT

# Assembly California Legislature

ALAN SIEROTY  
ASSEMBLYMAN, FIFTY-NINTH DISTRICT  
LOS ANGELES COUNTY

COMMITTEES  
CHAIRMAN, CRIMINAL JUSTICE  
CHAIRMAN, SELECT COMMITTEE ON  
COASTAL ZONE RESOURCES  
VICE CHAIRMAN, JOINT COMMITTEE  
FOR REVISION OF THE PENAL CODE  
NATURAL RESOURCES AND  
CONSERVATION  
TRANSPORTATION  
CHAIRMAN, SUBCOMMITTEE ON  
LOS ANGELES REGIONAL  
TRANSPORTATION  
WAYS AND MEANS

MEMBER  
ADVISORY COMMISSION ON MARINE  
AND COASTAL RESOURCES  
CALIFORNIA ARTS COMMISSION  
CALIFORNIA COUNCIL ON  
CRIMINAL JUSTICE

August 30, 1974

Honorable Ronald Reagan  
Governor of California  
State Capitol  
Sacramento, California 95814

Dear Governor Reagan:

I respectfully request your signature on Assembly Bill 2471,  
which is presently before you.

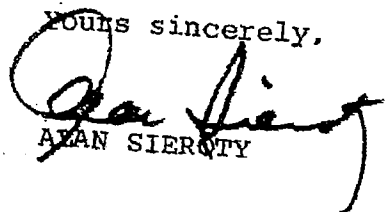
AB 2471 would enable physically-disabled persons to bring an  
action to enjoin violations of laws prohibiting architectural  
barriers in buildings accessible to the public. These barriers  
prevent physically handicapped persons from using such buildings.  
The bill would also enable the prevailing party in such an action  
to recover reasonable attorney's fees.

There are, at present, state laws which prevent architectural  
barriers in public and private buildings constructed after the  
date these laws went into effect (generally 1968 and 1969). Yet,  
these laws are often ignored by local government officials who are  
charged with the duty to enforce them.

AB 2471 is supported by the California Paralyzed Veterans  
Association, the California Association of the Physically Handicapped,  
the National Rehabilitation Association, and the Easter Seal Society  
of Los Angeles County. The bill passed the Assembly Judiciary  
Committee 7 to 1, the Assembly 69 to 1, the Senate Judiciary Committee  
9 to 1, and the Senate 26 to 0.

I urge your favorable consideration of this legislation.

Yours sincerely,



ALAN SIEROTY

AS:LB:jcw

ENROLLED BILL MEMORANDUM TO GOVERNOR		DATE	September 19, 1974
BILL NO.	Assembly Bill 2471	AUTHOR	Sieroty

Vote—Senate      Unanimous  
 Ayes—  
 Noes—

Vote—Assembly      Unanimous  
 Ayes— 69  
 Noes— 1 - Briggs

AB 2471 (Sieroty)  
 Chapter \_\_\_\_\_

Specifies that an action for an injunction to enforce specified provisions of law relating to construction and operation of public or private facilities not conforming to building requirements with respect to physically disabled persons; may be brought. Specifies that prevailing party is entitled to reasonable attorney's fees.)

The Department of Rehabilitation recommends approval.

The City of Los Angeles requests veto.

*The Department of Crime Screen Requests veto.*

Recommendation	<i>AD</i>	Legislative Secretary	<i>S</i>
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DEPARTMENT OF AGRICULTURE AND SERVICES AGRICULTURE AND SERVICES	BILL NUMBER AB 2471
GENERAL SERVICES	AUTHORITY ASSEMBLYMAN SIEROTY

Summary:

Assembly Bill 2471 adds Section 55 to the Civil Code relating to disabled persons.

History and Sponsorship:

Assembly Bill 2471 was introduced by Assemblyman Sieroty on May 15, 1973. The provisions of the bill as originally introduced would authorize a physically disabled person to give written notice to the owner of any private facility or in the case of a public facility to the enforcement authority designated by law that a facility contains unauthorized deviations to the requirements as specified under the Physically Handicapped Law. The bill also stated that if the deviation is not rectified within 90 days an action may be initiated for an injunction against further construction and operation until the deviation is corrected. The Department's position on the bill as introduced was opposed.

The bill was amended on April 22, 1974 to provide that in any action to enforce specified provisions of law relating to construction and operation of public or private facilities regarding specified laws relating to physically handicapped persons, the prevailing party is entitled to reasonable attorney's fees. The Department's position on the bill as amended April 22, 1974 was neutral.

The bill was finally amended on August 8, 1974. The Department's position remained neutral. However, following our analysis of the bill as amended August 8, 1974 we have reviewed the provisions of the bill as enrolled and believe, in essence, the amendments result in the same impact as the bill in its original form and as was opposed by the Department.

Therefore, the Department believes that the bill as enrolled would subject owners of buildings or facilities to unreasonable pressures through actions initiated by a person who considers he has been potentially aggrieved by a violation of the code.

We believe the existing enforcement provisions of the law are reasonable and protect the best interests of all parties concerned.

LEGISLATIVE COUNCIL

Agriculture and Services

BILL NUMBER  
AB 2471  
AUTHOR  
ASSEMBLYMAN  
STEROFF

GENERAL SERVICES

Financial Effect and Comment:

The bill could have a significant fiscal impact upon public and private building and facility owners through unreasonable actions initiated as a result of provisions of the bill.

Proposed By:

Approved By:

*Wayne H. Jensen*  
Wayne H. Jensen  
Chief, Administrative Services

*John C. Worsley*  
John C. Worsley, A.T.A.  
State Architect

Votes:  
Assembly 69/1 Senate 26/0

RECOMMENDATION:  
 SIGN  VETO DEFER TO

DATE OF REVISION: *1/11/74* (DATE) SECRETARY/CLERK: *[Signature]* (NAME) GATE: *SL1* 1/11/74



PROPOSED VETO LETTER

Assembly Bill 2471

I am returning without my signature Assembly Bill 2471 entitled "An Act to Add Section 55 to the Civil Code Relating to Disabled Persons".

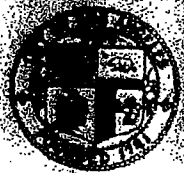
Provisions of the bill would allow any person who is aggrieved or potentially aggrieved by a violation of the Physically Handicapped Law to bring an action to enjoin the violation.

I believe that the enforcement provisions of the present law adequately protect all parties with regard to violations.

The provisions of Assembly Bill 2471 could result in the owners of building or facilities being subjected to unreasonable litigation and substantial financial loss. Therefore, I am returning the bill unsigned.

Respectfully,

Ronald Reagan, Governor



# City Council of the City of Los Angeles

KEN SPKER

CHIEF LEGISLATIVE ANALYST

September 10, 1974

Honorable Ronald Reagan  
Governor, State of California  
State Capitol  
Sacramento, California 95814

Dear Governor Reagan:

This is to confirm that the City of Los Angeles remains in opposition to AB 2471 (Sieroty) which has been approved by the Legislature and forwarded to you for your consideration.

This measure provides a procedure for obtaining a court injunction against further construction and operation of a facility not conforming to building requirements for physically disabled persons. Further, the bill specifies that the prevailing party is entitled to reasonable attorney's fees. As you know, entitlement of reimbursement for reasonable attorney's fees would encourage litigation. We think that such encouragement is unnecessary and potentially costly to all concerned.

I respectfully urge you to veto this measure.

Yours very truly,

*Norman D. Boyer*  
Norman D. Boyer  
Legislative Representative  
City of Los Angeles

AGENCY Health and Welfare Agency	BILL NUMBER AB 2471 (8/8/74)
DEPARTMENT, BOARD OR COMMISSION Department of Rehabilitation	AUTHOR Sieroty

SUBJECT: Enforcement of Architectural Barrier Laws

SPONSORSHIP: Assemblyman Sieroty

RELATED BILLS: AB 1547 (Sieroty), 1972

HISTORY: Assemblyman Sieroty carried AB 1547 (1972) which would have permitted a blind physically handicapped person to bring action for an injunction to stop construction or operation of a building or facility which did not meet the architectural barrier laws without being required to post a bond.

ANALYSIS: This bill is much more moderate specifying that an injunction may be brought and specifies that the prevailing party will be entitled to reasonable attorney fees. Under AB 2471, the plaintiff would have to post bond in order to bring the action.

Starting in 1968, several laws requiring buildings and other facilities be accessible to the physically handicapped have been passed. Enforcement of these architectural barrier laws have been very weak. Physically handicapped persons do not generally have income or resources necessary to pay for attorney fees when it is necessary to take flagrant violators to court. This bill will make clear that the prevailing party will be entitled to attorney's fees.

FISCAL IMPACT: No impact on state general funds. Other fiscal impact will depend upon awards made by the court.

FINANCE'S POSITION: Neutral

RECOMMENDATION:

Sign the bill

DEPARTMENT DIRECTOR <i>Pat C. Allison</i>	DATE 9/4/74	AGENCY SECRETARY <i>Edward E. Elmer</i>	DATE 9/12/74
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JAN RAYMOND  
**LEGISLATIVE | HISTORY & INTENT**

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**Volume 2**

**STATUTES OF CALIFORNIA**

**AND DIGESTS OF MEASURES**

**1974**

**Constitution of 1879 as Amended**

**Measures Submitted to Vote of Electors,  
Special Election, June 4, 1974,  
and General Election, November 5, 1974**

**General Laws, Amendments to the Codes, Resolutions,  
and Constitutional Amendments passed by the  
California Legislature**

**1973-74 Regular Session  
and  
1973-74 Second Extraordinary Session**

## CHAPTER 1442

*An act to add Section 14133.5 to the Welfare and Institutions Code, relating to Medi-Cal.*

[Approved by Governor September 26, 1974 Filed with  
Secretary of State September 26, 1974 ]

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

SECTION 1. Section 14133.5 is added to the Welfare and Institutions Code, to read:

14133.5. The Department of Health shall secure a toll free phone number for the use of pharmacists and other providers of Medi-Cal services listed in Section 14133 in requesting prior authorization for services under the supplemental schedule of benefits.

## CHAPTER 1443

*An act to add Section 55 to the Civil Code, relating to disabled persons.*

[Approved by Governor September 26, 1974 Filed with  
Secretary of State September 26, 1974.]

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

SECTION 1. Section 55 is added to the Civil Code, to read:

55. Any person who is aggrieved or potentially aggrieved by a violation of Section 54 or 54.1 of this code, Chapter 7 (commencing with Section 4450) of Division 5 of Title 1 of the Government Code, or Part 5.5 (commencing with Section 19955) of Division 13 of the Health and Safety Code may bring an action to enjoin the violation. The prevailing party in the action shall be entitled to recover reasonable attorney's fees.

## CHAPTER 1444

*An act to amend Sections 1250 and 1254 of the Health and Safety Code, relating to health planning.*

[Approved by Governor September 26, 1974 Filed with  
Secretary of State September 26, 1974 ]

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

CALIFORNIA LEGISLATURE

1973-74 REGULAR SESSION

*and*

1973-74 SECOND EXTRAORDINARY SESSION

# SUMMARY DIGEST

*of*

Statutes Enacted and Resolutions (Including Proposed  
Constitutional Amendments) Adopted in 1974

*and*

1969-1974 Statutory Record



Authorizes any such warden or superintendent, with the approval of the director of his department, to contract with any community college district for such educational services and requires specified reimbursement to the community college district for such services.

Requires specified reports to the Board of Governors of the California Community Colleges, the Legislature, and the Governor re such educational services.

To be operative from July 1, 1975 to June 30, 1976.

**Ch. 1437 (AB 898) Alatorre Public Employees' Retirement System**

Authorizes receipt of up to 4 years of service credit by local member other than a school member for any continuous active military or merchant marine service as public service upon payment of employer and employee contributions and interest

Not applicable to contracting agencies unless elected.

**Ch. 1438 (AB 905) Sieroty Taxation**

Authorizes carryover of excess contributions by individuals to charitable organizations for purposes of deducting such contributions in computing personal income taxes.

To take effect immediately, and to apply in the computation of taxes for taxable years beginning on or after January 1, 1974.

**Ch. 1439 (AB 927) Wood Public Employees' Retirement System**

Establishes "state industrial member" category comprised of certain prison and other correctional facility employees and prescribes industrial and nonindustrial disability benefits for such members

Prescribes employer rate of contribution with respect to state industrial members

Requires State Personnel Board to develop criteria for state safety category of membership, to list positions, and to transmit a report to the Legislature thereon and appropriate \$20,000 to the State Personnel Board for such purpose

**Ch. 1440 (AB 1318) Ingalls Public Employees' Retirement System.**

Permits persons who have been separated due to layoff and reemployed by the University of California to elect membership in the Public Employees' Retirement System in lieu of university retirement system Provides that average monthly salary during service in university retirement system shall be used for computing final compensation for member retiring concurrently under Public Employees' Retirement System and university retirement system.

**Ch. 1441 (AB 1587) Gonsalves Taxation.**

Denies business inventory exemption to business inventories assessed as escaped property due to willful or fraudulent omission, willful or fraudulent failure to report property accurately by the taxpayer, or knowingly reported erroneous or incorrect information by the taxpayer, rather than denying the exemption in all cases To apply to the 1975-76 fiscal year and fiscal years thereafter.

**Ch. 1442 (AB 2453) Waxman. Medi-Cal**

Requires the Department of Health to secure a toll free phone number for the use of pharmacists and other Medi-Cal providers in requesting prior authorization for services under the supplemental schedule of benefits.

**Ch. 1443 (AB 2471) Sieroty Disabled persons.**

Specifies that an action for an injunction to enforce specified provisions of law relating to construction and operation of public or private facilities not conforming to building requirements with respect to physically disabled persons may be brought. Specifies that prevailing party is entitled to reasonable attorney's fees.

**Ch. 1444 (AB 2477) Waxman. Health planning.**

Defines "special hospitals," as well as general acute care hospitals, acute psychiatric hospitals, skilled nursing facilities, and intermediate care facilities, as classes of health



Volume 11

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Legislature of the State of California

1973-74 Regular Session

January 6, 1973 to November 30, 1974

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Speaker of the Assembly

HON. CARLOS BEE  
Speaker pro Tempore

HON. HOWARD L. BERMAN  
Majority Floor Leader

HON. ROBERT G. BEVERLY  
Minority Floor Leader

<sup>91</sup>  
JAMES D. DRISCOLL  
Chief Clerk of the Assembly

- AB No.
- 2463 Introduced, held at desk, 2498, to committee, 2504, Art IV, Sec 8(a) of Constitution dispensed with, Joint Rule 55 suspended, 3371, from committee, amended (author's), 5175, engrossed, re-referred, 5292, from committee, amended (author's), 9462, engrossed, re-referred, 9520, from committee, re-referred, 9582, from committee, 9755, read second time, 9782, passed, to Senate, 9904, from Senate without action, November 30, 1974
- 2464 Introduced, held at desk, 2498, to committee, 2504, Joint Rule 62(a) waived, 4062, Art IV, Sec 8(a) of Constitution dispensed with, Joint Rule 55 suspended, 4092, from committee, 4681, amended, 4826, engrossed, 4995, read second time, 4999, passed, to Senate, 5198, from Senate without action, November 30, 1974
- 2465 Introduced, held at desk, 2498, to committee, 2504, Joint Rule 61(b) suspended, 5723, from committee, 5785, read second time, 5977, engrossed, 5981, to inactive file, 6172, died on inactive file, pursuant to Art IV, Sec 10(a) of Constitution, 10340
- 2466 Introduced, held at desk, 2498, to committee, 2504, withdrawn from committee, re-referred, 2936, Art IV, Sec 8(a) of Constitution dispensed with, Joint Rule 55 suspended, 3053, from committee, amended (author's), 3191, engrossed, re-referred, 3386, from committee, pursuant to Joint Rule 56 and Art IV, Sec 10(a) of Constitution, 10373
- 2467 Introduced, held at desk, 2498, to committee, 2504, Art IV, Sec 8(a) of Constitution dispensed with, Joint Rule 55 suspended, 3053, from committee, 4939, amended, 5007, engrossed, re-referred, 5106, Joint Rule 62(a) waived, 6178, from committee, 6572, pursuant to previous Rules suspension (6498), amended, considered engrossed, to third reading, 6581, passed, to Senate, 6646, Joint Rule 61(c) suspended, 8302, from Senate, with amendments, 9022, amendments concurred in, 9124, enrolled, to Governor, 9177, vetoed, 9257, stricken from file, 9358; last day to consider veto, 10917
- 2468 Introduced, held at desk, 2498, to committee, 2504, Art IV, Sec 8(a) of Constitution dispensed with, Joint Rule 55 suspended, 3053, from committee, re-referred, 4678; Joint Rule 62(a) waived, 6178, from committee, 6573, pursuant to previous Rules suspension (6498), amended, considered engrossed, to third reading, 6589, passed, to Senate, 6647, Joint Rule 61(c) suspended, 8302, from Senate, with amendments, 9014, amendments concurred in, 9106, enrolled, to Governor, 9177, Chapter 1067
- 2469 Introduced, held at desk, 2498, to committee, 2504, from committee, pursuant to Joint Rule 56 and Art IV, Sec 10(a) of Constitution, 10381
- 2470 Introduced, held at desk, 2499, to committee, 2504, from committee, pursuant to Joint Rule 56 and Art IV, Sec 10(a) of Constitution, 10374
- 2471 Introduced, held at desk, 2499, to committee, 2504, from committee, 9419, read second time, 9509, engrossed, 9520, passed, to Senate, 9614, from Senate, with amendments, 17305, amendments concurred in, 17397, enrolled, to Governor, 18038, Chapter 1443 (1974)
- 2472 Introduced, held at desk, 2499, to committee, 2504, from committee, amended (author's), 9651, engrossed, re-referred, 9708, from committee, re-referred, 9882, from committee, 10209, pursuant to previous Rules suspension (10149), read second time, to second day, to Consent Calendar, 10215, passed, to Senate, 10313, from Senate, with amendments, 18602, amendments concurred in, 18871, enrolled, to Governor, 19117, vetoed, 19181
- 2473 Introduced, held at desk, 2499, to committee, 2504, from committee, amended (author's), 6054, engrossed, re-referred, 6061, from committee, pursuant to Joint Rule 56 and Art IV, Sec 10(a) of Constitution, 10370
- 2474 Introduced, held at desk, 2499, to committee, 2504, from committee, 10039, pursuant to previous Rules suspension (10045), amended, considered engrossed, to third reading, 10107, passed, to Senate, 10172, from Senate, with amendments, 18633, amendments concurred in, 18965, enrolled, to Governor, 19132, vetoed, 19182
- 2475 Introduced, held at desk, 2504, Constitution dispensed with, Joint Rule 55 suspended, 2775, from committee, amended (author's), 4835, engrossed, re-referred, 5106, from committee, amended pursuant to previous Rules suspension

Volume 2

# Journal of the Assembly

Legislature of the State of California

1973-74 Regular Session

January 8, 1973, to November 30, 1974



**BOB MORETTI**  
Speaker of the Assembly

**CARLOS BEE**  
Speaker pro Tempore of the Assembly

**JACK R. FENTON**  
Majority Floor Leader

**ROBERT G. BEVERLY**  
Minority Floor Leader

**JAMES D. DRISCOLL**  
Chief Clerk of the Assembly

## A.B. No.

- 2463 Introduced, held at desk, 2498; to committee, 2504; Art. IV, Sec. 8(a) of Constitution dispensed with, Joint Rule 55 suspended, 3371; from committee, amended (author's), 5175; engrossed, re-referred, 5292; from committee, amended (author's), 9462; engrossed, re-referred, 9520; from committee, re-referred, 9582; from committee, 9755; read second time, 9782; passed, to Senate, 9904; from Senate without action, November 30, 1974
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- 2474 Introduced, held at desk, 2499; to committee, 2504; from committee, 10039; pursuant to previous Rules suspension (10045), amended, considered engrossed, to third reading, 10107; passed, to Senate, 10172; from Senate, with amendments, 18633; amendments concurred in, 18965; enrolled, to Governor, 19132; vetoed, 19182
- 2475 Introduced, held at desk, 2504; to committee, 2516; Art. IV, Sec. 8(a) of Constitution dispensed with, Joint Rule 55 suspended, 2775; from committee, 4682; amended, 4835; engrossed, re-referred, 5106; from committee, amended (author's), engrossed, re-referred, pursuant to previous Rules suspension (10045), considered engrossed, re-referred, 10042; withdrawn from committee, to third reading, 10056; passed, to Senate, 10172; from Senate without action, November 30, 1974
- 2476 Introduced, held at desk, 2504; to committee, 2546; from committee, pursuant to Joint Rules 56 and Art. IV, Sec. 10(a) of Constitution, 10377

Volume 8

# Journal of the Senate

Legislature of the State of California

1973-1974 Regular Session

January 8, 1973, to November 30, 1974

1973-74 First Extraordinary Session

December 4, 1973

1973-74 Second Extraordinary Session

September 25 to October 2, 1974



HON. ED REINECKE  
President of the Senate

HON. JAMES R. MILLS  
President pro Tempore

DARRYL R. WHITE  
Secretary of the Senate

- A.B. No.
- 2453 From Assembly, read first time, 3444; to committee, 3577; from committee, re-referred to committee, 4648; committee roll call, 4786; from committee, 13207; read second time, 13217; committee roll call, 13545; read third time, passed, to Assembly, 14650
- 2454 From Assembly, read first time, 3444; to committee, 3577; committee roll call, 5409; from committee, 5716; read second time, amended, re-referred to committee, 5798; from committee, 5997; read second time, 6013; read third time, passed, to Assembly, 6478, 6479; Senate amendments concurred in, 6910; committee roll call, 6925
- 2455 From Assembly, read first time, 3444; to committee, 3577; from committee, re-referred to committee, 5270; committee roll call, 5409; from committee, 5899; read second time, 5945; read third time, passed, to Assembly, 6444; committee roll call, 6921
- 2456 From Assembly, read first time, 3444; to committee, 3577; from committee, 5033; committee roll call, 5119; read second time, amended, re-referred to committee, 5154; from committee, 5899; read second time, 5946; read third time, passed, to Assembly, 6445; Senate amendments concurred in, 6911; committee roll call, 6921
- 2458 From Assembly, read first time, 3444; to committee, 3577; from committee, 5033; committee roll call, 5119; read second time, amended, re-referred to committee, 5154; from committee, 5899; read second time, 5946; to Consent Calendar, 6241; read third time, passed, to Assembly, 6334; Senate amendments not concurred in, Assembly appoints Conference Committee, 6481; Senate appoints Conference Committee, 6489; Assembly adopts conference report, 6498; Senate adopts conference report, 6897; committee roll call, 6921
- 2463 From Assembly, read first time, 7518; to committee, 7628; author's amendments, 7955, 9374; returned by committee without action, 14875
- 2464 From Assembly, read first time, 3681; to committee, 3872; from committee, 8835; committee roll call, 8888; read second time 8894; ordered to inactive file, 9648; from inactive file to third reading, 13333; read third time, refused passage, 13566, 13610
- 2467 From Assembly, read first time, 4794; to committee, 4904; from committee, read second time, amended, re-referred to committee, 5859; from committee, 6130; read second time, amended, 6145; read third time, passed, to Assembly 6572, 6574; Senate amendments concurred in, 6911; committee roll call, 6924, 6935
- 2468 From Assembly, read first time, 4797; to committee, 4904; committee roll call, 5878; from committee, 5996; read second time, amended, re-referred to committee, 6008; from committee, 6126; read second time, 6141; read third time, passed, to Assembly, 6570; Senate amendments concurred in, 6911; committee roll call, 6923, 6937
- 2471 From Assembly, read first time, 7307; to committee, 7429; author's amendments, 9101; from committee, 12053; read second time, amended, 12174; read third time, passed, to Assembly 13335; Senate amendments concurred in, 13531
- 2422 From Assembly, read first time, 7793; to committee, 7866; author's amendments, 12679; from committee, re-referred to committee, 12970; committee roll call, 13004; author's amendments, 13255; from committee 13702; read second time, 13714; committee roll call, 13960; read third time, passed, to Assembly, 14099, 14106; Senate amendments concurred in, 14562
- 2474 From Assembly, read first time, 7684; to committee, 7762; committee roll call, 12193; author's amendments, 12690; committee roll call, 13399; from committee, 13413; read second time, amended, 13428; read third time, amended, 14062; read third time, passed, to Assembly, 14122, 14210; Senate amendments concurred in, 14563
- 2475 From Assembly, read first time, 7684; to committee, 7762; returned by committee without action, 14870
- 2477 From Assembly, read first time, 4060; to committee, 4341; author's amendments, 5083, 12855; from committee, 13253; read second time, amended, re-referred to committee, 13266; from committee, 13702; read second time, 13714; read second time, amended, 13858; committee roll call, 13956, 13969; read third time, passed, to Assembly, 14100; Senate amendments concurred in, 14562
- 2478 From Assembly, read first time, 3444; to committee, 3577; from committee, 4581; read second time, amended, 4694; committee roll call, 4788; to Consent Calendar, 5199; from Consent Calendar to third reading, 5261; read third time, passed, to Assembly, 5845; Senate amendments concurred in, 6115

Volume 2

# Journal of the Senate

Legislature of the State of California

1973-1974 Regular Session

January 8, 1973, to November 30, 1974



HON. ED REINECKE  
President of the Senate

HON. JAMES R. MILLS  
President pro Tempore

DARRYL R. WHITE  
Secretary of the Senate

A.S. No.

- 2453 From Assembly, read first time, 3444; to committee, 3577; from committee, re-referred to committee, 4648; committee roll call, 4786; from committee, 13207; read second time, 13217; committee roll call, 13545; read third time, passed, to Assembly, 14650
- 2454 From Assembly, read first time, 3444; to committee, 3577; committee roll call, 5409; from committee, 5716; read second time, amended, re-referred to committee, 5798; from committee, 5997; read second time, 6013; read third time, passed, to Assembly, 6478, 6479; Senate amendments concurred in, 6910; committee roll call, 6925
- 2455 From Assembly, read first time, 3444; to committee, 3577; from committee, re-referred to committee, 5270; committee roll call, 5409; from committee, 5899; read second time, 5945; read third time, passed, to Assembly, 6444; committee roll call, 6921
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- 2474 From Assembly, read first time, 7684; to committee, 7762; committee roll call, 12193; author's amendments, 12690; committee roll call, 13399; from committee, 13413; read second time, amended, 13428; read third time, amended, 14062; read third time, passed, to Assembly, 14122, 14210; Senate amendments concurred in, 14563
- 2475 From Assembly, read first time, 7684; to committee, 7762; returned by committee without action, 14870
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- 2478 From Assembly, read first time, 3444; to committee, 3577; from committee, 4581; read second time, amended, 4694; committee roll call, 4788; to Consent Calendar, 5199; from Consent Calendar to third reading, 5261; read third time, passed, to Assembly, 5845; Senate amendments concurred in, 6115



**CERTIFICATE OF SERVICE**

I, the undersigned, hereby declare that I am over the age of eighteen years and not a party to the within action. I am readily familiar with this firm's business practice for collection and processing of documents for mailing with the U.S. Postal Service. My business address is 1600 South Main Street, Suite 280, Walnut Creek, California 94596. On September 8, 2010, I served the following document(s):

RESPONDENT'S MOTION TO TAKE JUDICIAL NOTICE; MEMORANDUM OF POINTS  
AND AUTHORITIES; DECLARATIONS OF JASON G. GONG AND JAN S. RAYMOND  
AND SUPPORTING EXHIBITS; [PROPOSED] ORDER

upon the following at the address(es) stated below:

Scottlynn J. Hubbard IV, Esq.  
LAW OFFICES OF LYNN HUBBARD  
12 Williamsburg Lane  
Chico, CA 95926  
Attys for: Petitioner Les Jankey

Supreme Court of California  
Office of the Clerk  
350 McAllister Street  
San Francisco, CA 94102-4783  
(Orig. + 14 copies)

Clerk of the Superior Court  
San Francisco County Superior Court  
400 McAllister Street, Appeals Division  
San Francisco, CA 94102  
Copies (1)

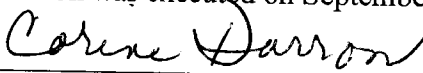
California Court of Appeal  
First Appellate District  
350 McAllister Street  
San Francisco, CA 94102  
Copies (1)

Solicitor General  
Office of the Attorney General  
1300 "I" Street  
P. O. Box 944255  
Sacramento, CA 94244-2550

Service was accomplished as follows:

       **BY US MAIL, According to Normal Business Practices.** On the above date, at my place of business at the above address, I sealed the above document(s) in an envelope addressed to the above, and I placed that sealed envelope for collection and mailing following ordinary business practices, for deposit with the U.S. Postal Service. I am readily familiar with the business practice at my place of business for the collection and processing of correspondence for mailing with the U.S. Postal Service. Correspondence so collected and processed is deposited with the U.S. Postal Service the same day in the ordinary course of business, postage fully prepaid.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on September 8, 2010 at Walnut Creek, California.

  
\_\_\_\_\_  
Corine Darrow