

ASSEMBLY THIRD READING

AB 1344 (Arambula)

As Amended April 8, 2021

Majority vote

SUMMARY

Establishes an exemption from the California Environmental Quality Act (CEQA) for needle and syringe exchange services, as specified.

Major Provisions

- 1) Provides that needle exchange program application submissions, authorizations, and operations performed pursuant to the Clean Needle and Syringe Exchange Program (program) within the Department of Public Health (DPH) are exempt from review under CEQA, and states that the exemption added to statute by the bill is intended to be declaratory of existing law.
- 2) Provides that the provisions of the program section amended by the bill are severable.

COMMENTS

Needle and syringe exchange programs (SEPs) reduce the spread of HIV, acute hepatitis C virus (HCV), and other blood-borne pathogen infections and are an effective component of comprehensive community-based prevention and intervention programs that provide additional services. These include vaccination, testing, linkage to infectious disease and substance use treatment, and access to and disposal of syringes and injection equipment.

SEPs have been operating in California since the late 1980s, providing sterile syringes, collecting used ones, and acting as a point of access to health education and help for people who inject drugs. California SEPs provide a wide range of services in addition to syringe exchange and disposal, including HIV and HCV testing, overdose prevention training, and referrals to drug treatment, housing, and mental health services. They operate in a variety of settings, including in health clinics, mobile vans, storefronts, and churches. Some offer street-based services in multiple locations, others offer services daily during standard business hours, and still others provide home delivery services.

AB 604 (Skinner), Chapter 744, Statutes of 2011, permitted DPH to authorize hypodermic needle and syringe services "in any location where the department determines that the conditions exist for the rapid spread of HIV, viral hepatitis, or any other potentially deadly or disabling infections that are spread through the sharing of used hypodermic needles and syringes." Prior to AB 604, only local governments had the authority to establish syringe services programs.

This authority was made permanent in the 2018 budget bill (AB 1810 (Budget Committee), Chapter 34, Statutes of 2018. That bill provided that "[i]n order to reduce the spread of HIV infection, viral hepatitis, and other potentially deadly blood-borne infections, the State Department of Public Health may, notwithstanding any other law, authorize entities that provide [needle and syringe exchange] services...to apply for authorization" for such services "after consultation with the local health officer and local law enforcement leadership, and after a period of public comment...".

DPH has authorized syringe services programs in 19 counties since 2011. These include programs offered by clinics, health departments and community-based organizations in Alameda, San Diego, Kern, Riverside, Santa Cruz, Humboldt, Sacramento, Inyo, El Dorado, Kings, Mono, Lake, Merced, Plumas, San Joaquin, Siskiyou and Yuba/Sutter counties.

Lawsuits have been filed against programs in Orange County, Butte County, and Santa Cruz, including CEQA claims. In the Orange County case, the court interpreted syringe services programs as "projects" subject to the CEQA because the program could not demonstrate that it collected all the syringes that it distributed. Subsequently that program was forced to shut down. Another program in Butte County has been forced to rescind its DPH-approved application in the face of similar litigation. Additionally, a similar lawsuit has been filed against a syringe service program in Santa Cruz in early 2021.

According to the Author

SEPs are a cost effective strategy instituted to slow the spread of deadly and disabling conditions. They have a proven track record of reducing the transmission of many deadly diseases, including HIV and hepatitis C. Due to the pandemic, SEPs have expanded their services in the form of providing COVID education, PPE distribution, sharing information on access to housing and health services, and other vitally needed services. After consultation with local health and law enforcement agencies, and a period of public comment, these programs can be authorized by DPH. Unfortunately, in an effort to thwart sound public health policy, some attorneys have inappropriately weaponized CEQA against public health programs. This abuse of the intent of CEQA pits public health and environmental concerns inappropriately against each other and constitutes a very real threat to public health. AB 1344 is needed to protect these SEP harm reduction programs and reduce community spread of communicable diseases.

Arguments in Support

According to the Drug Policy Alliance, this bill prevents anti-harm reduction litigants from placing public health and environmental protection goals of the legislature at odds with one another and subverting the intent of the legislature in enacting the law in 2011. It will also protect the public health of all Californians, and is particularly important at this time, in light of the twin pandemics of COVID-19 and opioid overdose.

Arguments in Opposition

According to Santa Cruz County, AB 1344 specifically establishes a (CEQA) exemption...for non-governmental needle exchange programs, eliminating this important public review opportunity...in local communities. This bill will eliminate the review, analysis, and compliance monitoring required to prevent increased waste and toxics from entering our watersheds, rivers, lakes, and coastal waters.

FISCAL COMMENTS

According to the Assembly Appropriations Committee, negligible state costs.

VOTES

ASM NATURAL RESOURCES: 6-4-1

YES: Luz Rivas, Chau, Friedman, Cristina Garcia, McCarty, Wood

NO: Flora, Mathis, Seyarto, Stone

ABS, ABST OR NV: Muratsuchi

ASM APPROPRIATIONS: 11-4-1

YES: Lorena Gonzalez, Carrillo, Chau, Gabriel, Eduardo Garcia, Levine, Quirk, Robert Rivas, Akilah Weber, Friedman, Stone

NO: Bigelow, Megan Dahle, Davies, Fong

ABS, ABST OR NV: Calderon

UPDATED

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