

SENATE THIRD READING

STR Bill Id:SB 251 Author:(Caballero)

As Amended Ver:April 10, 2025

2/3 vote. Urgency

SUMMARY

This bill appropriates \$1.2 million from the General Fund (GF) to pay the following claims, settlements, or judgments against the state. Specifically, this bill makes the following one-time appropriations in 2024-25 from the GF to the Attorney General (AG): \$617,277.81 for the payment of claims, settlements, or judgments against the state arising from *First Amendment Coalition v. Bonta* (San Francisco Superior Court Case No. CFP-19-516545); \$244,399.76 for the payment of claims, settlements, or judgments against the state arising from *Linton v. Bonta* (United States District Court, Northern District of California, No. 3:18-cv-07653-JD); and \$359,813.73 for the payment of claims, settlements, or judgments against the state arising from *X Corp. v. Bonta* (United States District Court, Eastern District of California, No. 2:23-cv-09139-WBS-AC).

Major Provisions

None.

COMMENTS

The appropriation in this bill results from the following claims, settlements or judgments against the state:

- 1) *First Amendment Coalition v. Bonta* (San Francisco Superior Court Case No. CFP-19-516545). Existing law, as enacted by SB 1421 (Skinner), Chapter 988, Statutes of 2018, requires peace officer or custodial officer personnel records and records maintained by any state or local agency to be made available for public inspection pursuant to the California Public Records Act (PRA) in the following instances: a) incidents involving the discharge of a firearm or electronic control weapons by an officer, as specified; b) incidents involving strikes of impact weapons or projectiles to the head or neck area; c) incidents of deadly force or serious bodily injury by an officer; d) incidents of sustained sexual assault by an officer; or e) incidents relating to sustained findings of dishonesty by a peace officer.

Plaintiffs successfully obtained records under the PRA in a case arising out of SB 1421, but also filed a verified petition for writ of mandate in February 2019 to compel the DOJ's disclosure of police misconduct records under SB 1421, even if those records concern employees of other state or local law enforcement agencies.

This case involved two appeals, which clarified SB 1421's application. The first appeal held the DOJ must produce responsive records regardless of which agency employed the officer (*Becerra v. Superior Court* (2020) 44 Cal.App.5th 897). On remand, the parties settled the attorneys' fees and costs claim for the first phase of the litigation, covering the period up to May 15, 2020, which was paid in June 2021, and is not the subject of this claims bill.

Following remittitur from the first appeal, the DOJ reviewed and produced records on a rolling basis, consistent with the Court of Appeal's order, while also litigating disputes with plaintiffs regarding the application of various traditional PRA exemptions to the records.

This resulted in a second appeal regarding the application of certain exemptions. In 2023, the Court of Appeal held the DOJ could apply certain exemptions to withhold documents from production, with the exception of Government Code section 11183. Specifically, the Court of Appeal held Government Code section 11183's prohibition on disclosing documents obtained by subpoena, as it pertained to officer-related records, posed a direct conflict with SB 1421's requirement that officer-related records shall be nonconfidential and disclosable under the PRA, notwithstanding any other law. (*First Amendment Coalition v. Superior Court* (2023) 98 Cal.App.5th 593, 606-607.) The court therefore ordered DOJ to produce such records, to the extent covered by SB 1421.

On remand from the second appeal, DOJ completed its production of documents as ordered by the Court of Appeal and consistent with agreements between the parties about the documents to be produced. The only remaining issue to resolve was plaintiffs' demand for attorneys' fees and costs for the second phase of litigation, covering the time period after May 15, 2020. Because Plaintiffs were entitled to fees and costs under the PRA (Government Code, section 7923.115), and to avoid further litigation and the risk of a higher award if plaintiffs filed a motion for fees, DOJ agreed to settle the attorneys' fees and costs claims in the amount of \$617,277.81.

On December 5, 2024, the Department of Finance issued a letter to DOJ, approving this settlement, and requested the inclusion of a total appropriation of \$617,277.81, payable from the General Fund in the annual claims bill to cover this settlement. The parties agreed that no interest will accrue on this settlement amount.

- 2) *Linton v. Bonta* (United States District Court, Northern District of California, No. 3:18-cv-07653-JD). This claim involves a Second Amendment constitutional challenge to the application of Penal Code sections 29800 and 30305, which prohibit any person convicted of a felony from possessing firearms and ammunition. The three individual plaintiffs in this case had their non-violent, out-of-state felony convictions set aside or vacated.

On December 20, 2018, two of the plaintiffs filed their Complaint in the Northern District of California against the Attorney General, who moved to dismiss the Complaint on February 22, 2019. Following a hearing on August 22, 2019, the Court issued an order stating that the motion raised issues best addressed in summary judgment proceedings. In December 2019, the plaintiffs filed an Amended Complaint adding another individual plaintiff and moved for a preliminary injunction. On May 21, 2020, the Court denied the plaintiffs' preliminary injunction motion.

The plaintiffs moved for summary judgment in June 2020, but after the parties completed briefing, the Court administratively stayed the case pending the Ninth Circuit's en banc decision in *Duncan v. Becerra*, Case No. 19-55376. On June 30, 2022, after the Supreme Court's decision in *New York State Rifle & Pistol Ass'n, Inc. v. Bruen*, 597 U.S. 1 (2022), the court lifted the stay, and the plaintiffs renewed their summary judgment motion in August 2022.

On February 28, 2024, the Court granted Plaintiffs' summary judgment motion, concluding that the individual plaintiffs, who had their non-violent, out-of-state felony convictions set aside or vacated, were among "the people" protected by the Second Amendment, and that, under the *Bruen* analysis, the historical record of firearm restrictions cited in the Attorney

General's briefing did not provide an analogue sufficient to justify the State's restrictions against the individual plaintiffs.

On June 17, 2024, the Court entered judgment in favor of the individual plaintiffs and issued a limited injunction enjoining the Attorney General from prohibiting the possession or ownership of firearms or ammunition by the individual plaintiffs pursuant to California Penal Code sections 29800 and 30305, based upon their out-of-state felony convictions that were set aside or vacated.

On August 1, 2024, Plaintiffs filed a motion, pursuant to 42 U.S.C. Section 1988, for attorneys' fees and costs incurred in the action. To avoid further litigation costs, the parties agreed to a settlement of the attorneys' fees and costs and filed a joint stipulation with the Court. On November 26, 2024, the Court entered an order awarding \$244,399.76 in fees and costs to the individual plaintiffs.

On February 4, 2025, the Department of Finance approved payment of the settlement, and requested inclusion of an appropriation of \$244,399.76 from the General Fund in the annual claims bill.

- 3) *X Corp. v. Bonta* (United States District Court, Eastern District of California, No. 2:23-cv-09139-WBS-AC). This claim involves a First Amendment challenge to provisions of AB 587 (Gabriel), Chapter 269, Statutes of 2022, which requires social media companies, as defined, to post their terms of service and to submit other specified information in semi-annual reports to the California Attorney General.

X Corp., which operates the social media platform X (formerly known as Twitter), filed a complaint against the Attorney General on September 8, 2023, alleging that AB 587 violates the First Amendment, among other constitutional provisions. The district court denied X Corp.'s motion for a preliminary injunction, but that decision was partially reversed on appeal in *X Corp. v. Bonta*, 116 F.4th 888, 904 (2024). The Ninth Circuit ruled that the provisions of AB 587 requiring social media companies to disclose information related to specified categories of user content—e.g. "hate speech or racism," "extremism or radicalization," "disinformation or misinformation"—violate the First Amendment. The Ninth Circuit therefore ordered that those provisions, encoded in Business and Professions Code section 22677, subdivisions (a)(3), (a)(4)(A), (a)(5), should be preliminarily enjoined. The Ninth Circuit remanded proceedings to the district court to issue the injunction and determine whether additional provisions of AB 587 should also be enjoined based on its ruling. The Ninth Circuit did not rule on the constitutionality of any other provisions of AB 587. The District Court entered a judgment in favor of Plaintiff on the first cause of action and declared Business and Professions Code section 22677, subdivisions (a)(3), (a)(4)(A), (a)(5), violate the First Amendment facially and as applied to Plaintiff, and permanently enjoined the Attorney General from enforcing those provisions. The Court dismissed the remainder of the first cause of action regarding the remaining provisions of AB 587, and dismissed the second and third causes of action in the complaint, with prejudice.

Following the Ninth Circuit ruling, the parties entered into settlement negotiations. Because X Corp. had filed suit under 42 U.S.C. section 1983, it was entitled to attorneys' fees and costs as the prevailing party. The parties reached a settlement that ended X Corp.'s challenge to AB 587's remaining provisions and included an award of \$345,576 in attorneys' fees and

costs. The district court formally adopted these terms by entering a stipulated judgment on March 4, 2025.

On April 8, 2025, the Department of Finance approved payment pursuant to the judgment and requested inclusion of an appropriation of \$359,813.73 from the General Fund in the annual claims bill. This includes the award amount for attorney's fees and costs, and additional funds to cover interest that is accruing daily at a rate of 4.12% compounded annually, pursuant to 28 U.S.C. section 1961. Any funds appropriated in excess of the amount required for payment of the settlement will revert to the General Fund.

According to the Author

Arguments in Support

None on file.

Arguments in Opposition

None on file.

FISCAL COMMENTS

One-time appropriation from the GF to the AG in the amount \$1,221,491.30

VOTES

SENATE FLOOR: 28-0-12

YES: Allen, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Cortese, Durazo, Gonzalez, Grayson, Grove, Laird, Limón, McGuire, McNerney, Menjivar, Ochoa Bogh, Padilla, Pérez, Richardson, Smallwood-Cuevas, Stern, Umberg, Wahab, Weber Pierson, Wiener

ABS, ABST OR NV: Alvarado-Gil, Archuleta, Choi, Dahle, Hurtado, Jones, Niello, Reyes, Rubio, Seyarto, Strickland, Valladares

ASM APPROPRIATIONS: 11-0-4

YES: Wicks, Arambula, Calderon, Nguyen, Elhawary, Aguiar-Curry, Hart, Pacheco, Pellerin, Solache, Tangipa

ABS, ABST OR NV: Sanchez, Dixon, Mark González, Ta

UPDATED

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CONSULTANT: Jay Dickenson / APPR. / (916) 319-2081

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