
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anna Caballero, Chair
2025 - 2026 Regular Session

SB 678 (Niello) - Fire prevention activities: challenges: undertaking

Version: February 21, 2025

Urgency: Yes

Hearing Date: May 5, 2025

Policy Vote: JUD. 13 - 0

Mandate: No

Consultant: Liah Burnley

Bill Summary: SB 678 allows a defendant to seek an order requiring the plaintiff to furnish an undertaking as security in any civil action brought to challenge a project that will engage in fire prevention activities, including those brought pursuant to the California Environmental Quality Act (CEQA).

Fiscal Impact:

- **Trial Courts:** Unknown, potentially significant cost to the state funded trial court system (Trial Court Trust Fund, General Fund) to hold the hearings and to adjudicate the motions authorized by this bill. This bill could lead to lengthier and more complex court proceedings with attendant workload and resource costs to the court. The fiscal impact of this bill to the courts will depend on many unknown factors, including the number of cases filed and the factors unique to each case. An eight-hour court day costs approximately \$10,500 in staff in workload. If court days exceed 10, costs to the trial courts could reach hundreds of thousands of dollars. In 2023–24, over 4.8 million cases were filed statewide in the superior courts. Filings increased over the past year, driven mostly by misdemeanors and infractions, and civil limited cases. The increase in filings from the previous year is greater than 5% for civil limited and unlimited, appellate division appeals, juvenile delinquency, misdemeanors and infractions, and probate. While the courts are not funded on a workload basis, an increase in workload could result in delayed court services and would put pressure on the General Fund to fund additional staff and resources and to increase the amount appropriated to backfill for trial court operations. The Governor's 2025-26 budget proposes a \$40 million ongoing increase in discretionary funding from the General Fund to help pay for increased trial court operation costs beginning in 2025-26.
- **State and Local Agencies:** Unknown, potentially significant costs (General Fund, local funds) to state and local agencies to litigate the motions authorized by this bill and/or being required to furnish an undertaking in actions challenging fire prevention activities. Alternatively, this bill could result in potential cost savings to the extent that a plaintiff is required to furnish an undertaking in instances where the state or local agency is the defendant in the civil action.

Background: Last year, the Legislature provided a mechanism for a defendant in a civil action challenging a housing project for low- or moderate-income housing to seek an order requiring the plaintiff to furnish an undertaking as security for costs and damages that may be incurred by the defendant if the bringing of the action by the plaintiff would result in preventing or delaying the project. Prior to the enactment of SB

393, the defendant had the burden of making a showing that the posting of the undertaking would not place an undue hardship on the plaintiff. This bill seeks to enact a similar mechanism for a defendant in any civil action, including an action under CEQA, challenging a project that engages in fire prevention activities. “Fire prevention activities” are lawful activities that reduce the risk of wildfire in California, including, but not limited to, mechanical vegetation management, prescribed grazing, prescribed burns, creation of defensible space, and retrofitting of structures to increase fire resistance.

Proposed Law: This bill does all of the following:

- In all civil actions, including, but not limited to CEQA actions, brought by any plaintiff seeking to challenge a project which will engage in fire prevention activities a defendant may motion for an order requiring the plaintiff to furnish an undertaking as security for costs and any damages that may be incurred by the defendant by the conclusion of the action or proceeding as the result of a delay in carrying out the project.
- Requires the motion to be made on the grounds that the action is without merit and that the action was brought in bad faith, vexatiously, for the purpose of delay, or to thwart the project.
- Provide that, in responding to a motion for undertaking, the plaintiff may seek to limit the amount of the undertaking by presenting admissible evidence that filing an undertaking will cause it, and in cases where the plaintiff is an unincorporated association, its members, to suffer undue economic hardship.
- Requires after a hearing, if the grounds for the motion have been established, the court to order the plaintiff to file an undertaking as security for costs and damages of the defendant. The undertaking must be in an amount specified by the court, taking into consideration any admitted evidence of plaintiff’s economic hardship and avoiding causing the plaintiff to suffer undue economic hardship.
- Provide that the liability of the plaintiff for the costs and damages of the defendant shall not exceed \$500,000.
- States that, if the court concludes, based on all of the admissible evidence presented, that a bond in any amount would cause the plaintiff to suffer undue economic hardship, the court is authorized in its discretion to decline to impose a bond.

Related Legislation: SB 393 (Glazer, Ch. 285, Stats. 2024) shifted the burden from the defendant to the plaintiff to demonstrate that posting a bond would place an undue economic hardship on the plaintiff in certain actions challenging certain low- or moderate-income housing projects.

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