

AMENDED IN ASSEMBLY SEPTEMBER 29, 2003

AMENDED IN ASSEMBLY APRIL 21, 2003

AMENDED IN ASSEMBLY APRIL 3, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 69

Introduced by Assembly Member Correa

December 11, 2002

~~An act to add Chapter 6 (commencing with Section 17300) to Part 2 of Division 7 of the Business and Professions Code, relating to business. An act to amend Section 14672.100 of the Government Code, relating to public works.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 69, as amended, Correa. ~~Business: unfair competition~~ *Public works.*

Existing law, effective on January 1, 2004, authorizes the Director of General Services to lease real property appurtenant to or part of the Ione Youth Facility, as described, to the Amador Regional Sanitation Authority for up to 30 years at the rate of \$1 per year for its continued use as a wastewater delivery and disposal system, subject to specified conditions.

This bill would make a nonsubstantive technical change in those provisions.

~~Existing law provides remedies for acts of unfair competition, as defined, which may be brought by the Attorney General or other designated public governmental law agencies or by a private person acting for the interest of itself, its members, or the general public.~~

~~This bill would impose specified requirements on an unfair competition action brought on or after January 1, 2004, by a private person acting for the interests of the general public, which the bill would designate as a representative cause of action. The bill would require that a representative cause of action be verified and accompanied by a statement under penalty of perjury attesting to specified information. The bill would impose additional requirements, including notification of specified agencies of the filing of a representative cause of action and of the proposed terms of a judgment or modification in a representative cause of action, as specified. The bill would require the Attorney General to make these notifications publicly available via the Internet. The bill would prohibit a private person acting for the interests of the general public from soliciting a settlement or resolution of an alleged act of unfair competition without first filing a complaint with the court.~~

~~By adding new perjury crimes, the bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

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

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

1 ~~SECTION 1.—~~ The Legislature finds and declares the
2 ~~SECTION 1.~~ *Section 14672.100 of the Government Code, as*
3 ~~added by Assembly Bill 256 of the 2003–04 Regular Session of the~~
4 ~~Legislature, is amended to read:~~
5 14672.100. (a) Notwithstanding Section 14670, the Director
6 of General Services, with the consent of the Department of the
7 Youth Authority, may lease real property appurtenant to or part of
8 the Ione Youth Facility as designated by the Department of the
9 Youth Authority, which real property located in the County of
10 Amador comprises the easements known as the Preston Ditch,
11 Henderson Reservoir, Preston Reservoir, Preston Forebay, certain
12 water rights with a diversion point on Sutter Creek, unused land
13 at the Ione Youth Facility, and other pipelines and facilities leased



1 to the County of Amador as lessee in the document entitled
2 “Agreement for Wastewater Management Plan” dated March 22,
3 1978, which interests have been assigned to the Amador Regional
4 Sanitation Authority, a joint powers agency comprised of the
5 County of Amador and the Cities of Amador City and Sutter
6 Creek. The new lease shall be for a term not to exceed 30 years and
7 at the rate of one dollar (\$1) per year, to the Amador Regional
8 Sanitation Authority for its continued use as a wastewater delivery
9 and disposal system. The lease shall contain the terms and
10 conditions for wastewater disposal and other matters to which the
11 parties agree.

12 (b) The lease shall provide that the property shall be leased “as
13 is” and that the state shall have no liability for repairs,
14 rehabilitation, or other improvements. It shall provide that the
15 lessee, Amador Regional Sanitation Authority, shall operate the
16 leased property pursuant to the terms of the lease under those terms
17 and conditions, as deemed to be in the best interest of the state.

18 (c) The lease described in this section shall be exempt from the
19 requirements of Division 13 (commencing with Section ~~2100~~)
20 ~~21000~~) of the Public Resources Code.

21 (d) The Department of General Services shall be reimbursed
22 for its cost related to the lease, including, but not limited to, any
23 survey costs, title transfer fees, administrative costs, and
24 department staff time.

25 (e) The Legislature finds and declares that the lease of the
26 described portion of the Ione Youth Facility and appurtenant real
27 property to the Amador Regional Sanitation Authority for use as
28 a wastewater delivery and disposal system pursuant to this section
29 is for a statewide public purpose.

30 following:

31 ~~(a) The provisions of law in Chapter 5 (commencing with~~
32 ~~Section 17200) of Part 2 of Division 7 of the Business and~~
33 ~~Professions Code (hereafter the unfair competition law), are~~
34 ~~intended to protect consumers and the businesses that serve them~~
35 ~~from fraud, misconduct, and deception in the advertising and~~
36 ~~practice of commerce.~~

37 ~~(b) The unfair competition law is an important provision of law~~
38 ~~that has provided great benefit to the people of California in~~
39 ~~preventing, halting, and remedying consumer and public market~~
40 ~~abuses.~~



1 ~~(c) Representative actions by private attorneys brought for the~~
2 ~~primary purpose of protecting consumers are a valuable~~
3 ~~component of the unfair competition law and permit appropriate~~
4 ~~enforcement of the law when public entities lack the resources to~~
5 ~~do so.~~

6 ~~(d) The improper or unethical use of the unfair competition law~~
7 ~~damages the legitimacy and undermines the original intent of that~~
8 ~~law. These abuses hamper the ability of legitimate businesses to~~
9 ~~operate efficiently and provide the jobs, goods, prices, and~~
10 ~~services desired by the consumers of this state.~~

11 ~~(e) Law-abiding business owners of California have a right to~~
12 ~~reasonable protection from unlawful, unethical, repetitive, and~~
13 ~~disproportionate lawsuits or settlement demands when the public~~
14 ~~good has not been appreciably endangered.~~

15 ~~SEC. 2.—Chapter 6 (commencing with Section 17300) is added~~
16 ~~to Part 2 of Division 7 of the Business and Professions Code, to~~
17 ~~read:~~

18
19 ~~CHAPTER 6.—REPRESENTATIVE ACTIONS ON BEHALF OF THE~~
20 ~~PUBLIC~~

21
22 ~~17300.—This chapter applies to a representative cause of action~~
23 ~~filed on or after January 1, 2004. A representative cause of action~~
24 ~~is a cause of action asserted by a private plaintiff on behalf of the~~
25 ~~general public under Section 17204. A private plaintiff is a person~~
26 ~~other than the Attorney General, district attorney, county counsel,~~
27 ~~city attorney, or city prosecutor.~~

28 ~~17301.—A private plaintiff may plead a representative cause of~~
29 ~~action on behalf of the interests of the general public under Section~~
30 ~~17204 only if the requirements of this chapter are satisfied.~~

31 ~~17302.—(a) The private plaintiff shall separately plead the~~
32 ~~representative cause of action in the complaint and shall designate~~
33 ~~it as being brought “on behalf of the interests of the general~~
34 ~~public” under Section 17204. The complaint shall be verified~~
35 ~~pursuant to Section 446 of the Code of Civil Procedure.~~

36 ~~(b) The complaint shall include a statement under penalty of~~
37 ~~perjury by the private plaintiff and by his or her attorney of record~~
38 ~~that they do not have a conflict of interest or other impediment to~~
39 ~~their faithful representation of the interests of the general public~~
40 ~~they represent. A representative cause of action is not valid if filed~~



1 ~~without this statement, and the court may in its discretion take~~
2 ~~appropriate action to dismiss the action and award costs and~~
3 ~~attorney's fees to the defendant.~~

4 ~~17303. (a) At the time of filing a representative cause of~~
5 ~~action, the private plaintiff shall notify and submit a copy of the~~
6 ~~complaint, including a copy in electronic form, to the Attorney~~
7 ~~General, the district attorney for the county in which the complaint~~
8 ~~is filed, and the state or local body responsible for regulating the~~
9 ~~defendant named in the representative cause of action. The~~
10 ~~Attorney General shall make the notice publicly available via the~~
11 ~~Internet.~~

12 ~~(b) Filing of the complaint constitutes a representation to the~~
13 ~~court that the notice described in subdivision (a) has been or will~~
14 ~~be given as required by this section. Failure to provide notice as~~
15 ~~required by this section is subject to the imposition of sanctions~~
16 ~~pursuant to Section 128.7 of the Code of Civil Procedure.~~

17 ~~17304. The private plaintiff shall provide notice of any~~
18 ~~application for preliminary relief to the parties designated in~~
19 ~~Section 17303 in the same manner as notice is given to the~~
20 ~~defendant.~~

21 ~~17305. (a) The State Bar of California shall prepare and~~
22 ~~make publicly available by June 1, 2004, a "Disclosure of~~
23 ~~Defendant's Rights" that describes, in simple and easy to~~
24 ~~understand terms, the legal rights and privileges applicable to a~~
25 ~~defendant in a representative cause of action. The document shall~~
26 ~~also include a description of abusive settlement tactics and~~
27 ~~instructions for contacting the Attorney General and the State Bar~~
28 ~~to report unethical conduct or any suspected abusive lawsuits. The~~
29 ~~document shall be made publicly available in English and in other~~
30 ~~languages principally spoken in this state.~~

31 ~~(b) The private plaintiff shall serve the defendants in a~~
32 ~~representative cause of action with the "Disclosure of Defendant's~~
33 ~~Rights." This document shall be served on the defendants with the~~
34 ~~complaint. Only the "Disclosure of Defendant's Rights"~~
35 ~~developed by the State Bar shall be used for this purpose.~~

36 ~~17306. (a) A private plaintiff may not have a conflict of~~
37 ~~interest that reasonably could compromise the good faith~~
38 ~~representation of the interests of the general public pled in the~~
39 ~~complaint. The attorney for a private plaintiff shall be an adequate~~



1 legal representative of the interests of the general public pled in the
2 complaint.

3 (b) On a noticed motion of a party or on the court's own motion,
4 the court shall determine whether the requirements of subdivision
5 (a) are satisfied. The determination may be based on the pleadings,
6 or the court in its discretion may permit discovery on the issues.
7 In making its determination, the court shall consider standards
8 applied in class actions. If the court determines that the
9 requirements of subdivision (a) are not satisfied, the representative
10 cause of action shall be stricken from the complaint.

11 (e) This section does not preclude the court from granting
12 appropriate preliminary relief before making a determination
13 under subdivision (b).

14 17307. (a) Before entry of a judgment or any modification of
15 a judgment that is a final determination of the representative cause
16 of action and before any settlement shall become effective, the
17 court shall determine if all of the following requirements have
18 been satisfied:

19 (1) The proposed judgment and any stipulations and associated
20 agreements are lawful, fair, reasonable, noncollusive, and
21 adequate to protect the interests of the general public pled in the
22 complaint.

23 (2) Any award of attorney's fees included in the judgment or in
24 any stipulation or associated agreement complies with applicable
25 law.

26 (3) All other requirements of this chapter have been satisfied.

27 (b) If the court finds that the requirements of this chapter have
28 not been satisfied, the court may impose sanctions pursuant to
29 existing provisions of law.

30 17308. (a) At least 45 days before the date of the hearing
31 described in Section 17307, the private plaintiff shall give notice,
32 including a copy in electronic form, of the proposed terms of the
33 judgment or modification, including all stipulations and
34 associated agreements between the parties, together with notice of
35 the time and place set for the hearing on the entry of the judgment
36 or modification, to all of the following:

37 (1) The Attorney General.

38 (2) The district attorney of the county where the action is
39 pending.



1 ~~(3) The state or local body responsible for regulating the~~
2 ~~defendant.~~

3 ~~(4) Other parties known to the plaintiff with cases pending~~
4 ~~against the defendant based on substantially similar facts and~~
5 ~~theories of liability.~~

6 ~~(5) Each person who has filed with the court a request for notice~~
7 ~~of the terms of the judgment.~~

8 ~~(6) Other persons as ordered by the court.~~

9 ~~(b) On motion of a party or on the court's own motion, the court~~
10 ~~for good cause may shorten or lengthen the time for giving notice~~
11 ~~under subdivision (a).~~

12 ~~(c) The Attorney General shall make the proposed terms of the~~
13 ~~judgment or notification publicly available via the Internet.~~

14 ~~17309. — Judgments, stipulations, and associated agreements in~~
15 ~~a representative cause of action are public documents.~~

16 ~~17310. — Any notice provided to the Attorney General, a district~~
17 ~~attorney, or a regulatory body pursuant to this chapter imposes no~~
18 ~~duty on any of those offices, other than those described in Sections~~
19 ~~17303 and 17308. The Attorney General, district attorney, or~~
20 ~~regulatory body is not precluded from taking any action as a~~
21 ~~consequence of not acting in response to a notice provided under~~
22 ~~this chapter.~~

23 ~~17311. — The determination of a representative cause of action~~
24 ~~in a judgment approved by the court is conclusive and bars any~~
25 ~~further actions or causes of action brought by any private plaintiff~~
26 ~~against the same defendant based on substantially similar facts and~~
27 ~~theories of liability.~~

28 ~~17312. — A representative cause of action may not be dismissed,~~
29 ~~settled, or compromised, and no payments or monetary~~
30 ~~consideration may be collected or received by the plaintiff or its~~
31 ~~counsel without the approval of the court and a determination that~~
32 ~~the disposition of the representative cause of action satisfies the~~
33 ~~requirements of this chapter.~~

34 ~~17313. — No private person acting for the interests of the general~~
35 ~~public may solicit a settlement or resolution of an alleged act of~~
36 ~~unfair competition without first filing a complaint complying with~~
37 ~~the requirements of this chapter.~~

38 ~~SEC. 3. — No reimbursement is required by this act pursuant to~~
39 ~~Section 6 of Article XIII B of the California Constitution because~~
40 ~~the only costs that may be incurred by a local agency or school~~



1 ~~district will be incurred because this act creates a new crime or~~
2 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
3 ~~for a crime or infraction, within the meaning of Section 17556 of~~
4 ~~the Government Code, or changes the definition of a crime within~~
5 ~~the meaning of Section 6 of Article XIII B of the California~~
6 ~~Constitution.~~

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