

AMENDED IN SENATE APRIL 9, 2008
AMENDED IN SENATE MARCH 28, 2008

SENATE BILL

No. 1136

Introduced by Senator Alquist

January 31, 2008

An act to add Section 10003 to the Welfare and Institutions Code, relating to public social services.

LEGISLATIVE COUNSEL'S DIGEST

SB 1136, as amended, Alquist. Public social services: unconscionable fees.

Existing law creates various programs to provide public social services to persons who have limited incomes and meet various eligibility requirements. These programs include the Medi-Cal program administered by the State Department of Health Care Services and the California Work Opportunity and Responsibility to Kids (CalWORKs) program.

This bill would make it a misdemeanor for any person to charge or receive an unconscionable fee, as defined, to prepare or aid an applicant or recipient in the procurement, maintenance, or securing of public social services, as defined. ~~The bill would make this provision inapplicable to a person licensed to practice law in California and who is subject to the Rules of Professional Conduct of the State Bar of California.~~

Because this bill would create a new crime, 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.
State-mandated local program: yes.

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

1 SECTION 1. Section 10003 is added to the Welfare and
2 Institutions Code, to read:

3 10003. (a) Any person who charges or receives an
4 unconscionable fee, as defined in paragraph (2) of subdivision ~~(e)~~
5 ~~(b)~~, to prepare or aid an applicant or recipient in the procurement,
6 maintenance, or securing of public social services, as defined in
7 paragraph (1) of subdivision ~~(e)~~ ~~(b)~~, shall be guilty of a
8 misdemeanor.

9 ~~(b) Subdivision (a) shall not apply to a person licensed to~~
10 ~~practice law in California and who is subject to the Rules of~~
11 ~~Professional Conduct of the State Bar of California.~~

12 ~~(e)~~

13 (b) For purposes of this section, the following definitions shall
14 apply:

15 (1) “Public social services” means those activities and functions
16 of state and local government administered or supervised by the
17 State Department of Health Care Services, the State Department
18 of Public Health, or the State Department of Social Services, and
19 involved in providing aid or services, or both, including health
20 care services and medical assistance, to those people of the state
21 who, because of their economic circumstances or social condition,
22 are in need thereof and may benefit thereby.

23 (2) “Unconscionable fee” means a fee that is so exorbitant and
24 wholly disproportionate to the services performed as to shock the
25 conscience of persons of ordinary prudence practicing in the same
26 community. Factors to be considered, when appropriate, in
27 determining the reasonableness of a fee, are based on the
28 circumstances existing at the time of the service and shall include,
29 but not be limited to, all of the following:

30 (A) The time and effort required.

31 (B) The novelty and difficulty of the services.

32 (C) The skill required to perform the services.

33 (D) The nature and length of the professional relationship.

1 (E) The experience, reputation, and ability of the individual
2 providing the services.

3 SEC. 2. No reimbursement is required by this act pursuant to
4 Section 6 of Article XIII B of the California Constitution because
5 the only costs that may be incurred by a local agency or school
6 district will be incurred because this act creates a new crime or
7 infraction, eliminates a crime or infraction, or changes the penalty
8 for a crime or infraction, within the meaning of Section 17556 of
9 the Government Code, or changes the definition of a crime within
10 the meaning of Section 6 of Article XIII B of the California
11 Constitution.

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