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CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

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**ASSEMBLY BILL**

**No. 2173**

**Introduced by Assembly Member Beall**  
**(Coauthors: Assembly Members Arambula, Chesbro, Coto, Davis,**  
**Galgiani, and Ma)**

February 18, 2010

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An act to add and repeal Section 76000.10 of the Government Code, relating to emergency services.

LEGISLATIVE COUNSEL'S DIGEST

AB 2173, as amended, Beall. Emergency medical air transportation providers: penalty levy: reimbursement augmentation.

Existing law requires an additional county penalty of \$7 for every \$10, or part of \$10, to be levied upon every fine, penalty, or forfeiture imposed and collected by the courts for all criminal offenses, for deposit into specified county funds relating to the construction of courthouses, criminal justice facilities, and forensic laboratories, and the support of emergency medical services.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which health care services, including medical transportation services,

are provided to qualified low-income persons. The Medi-Cal program is partially governed and funded under federal Medicaid provisions.

Existing law, the Emergency Medical Services System and the Prehospital Emergency Medical Care Personnel Act, authorizes each county to designate an emergency medical services agency, for the establishment and administration of an emergency medical services program in the county. Existing law also establishes the Emergency Medical Services Authority, which, among other things, adopts regulations governing the provision of emergency medical services.

This bill, which would be known as the Emergency Medical Air Transportation Act, would impose an additional penalty of \$4 upon every conviction for an offense involving a vehicle violation, except certain parking offenses. This bill would require each county board of supervisors to establish in the county treasury an emergency medical air transportation act fund into which the penalty collected pursuant to this bill would be deposited. This bill would require, ~~on~~ *within 30 days following* the last day of each calendar quarter of the year, the county treasurer to transfer moneys in the county's emergency medical air transportation act fund to the Controller for deposit into the Emergency Medical Air Transportation Act Fund, which would be established by the bill. *The bill would authorize the county treasurer, prior to transferring the moneys in the county fund to the Controller, to withhold a sufficient amount from being transferred to reimburse the county and the courts for their actual, reasonable, and necessary costs associated with administering the bill.* Moneys in the ~~fund~~ *Emergency Medical Air Transportation Act Fund* would be available, upon appropriation by the Legislature, to the department for the purposes of ~~augmenting Medi-Cal reimbursement paid to emergency medical air transportation services providers and to reimburse the department, the courts, and each county for actual, reasonable, and necessary expenses of administering the bill~~ *offsetting the state portion of the Medi-Cal reimbursement rate for emergency medical air transportation services and augmenting emergency medical air transportation reimbursement payments made through the Medi-Cal program, as specified.*

~~The bill would, upon appropriation by the Legislature, require the department to use the moneys in the Emergency Medical Air Transportation Act Fund and federal matching funds to increase the Medi-Cal reimbursement or supplemental payments for emergency medical air transportation services in an amount not to exceed normal~~

~~and customary charges charged by an emergency medical air transportation services provider.~~

This bill would terminate assessment of the penalties commencing July 1, 2016, and would repeal these provisions on January 1, 2018, as provided. The bill would require that any moneys in the Emergency Medical Air Transportation Act Fund that remain unexpended and unencumbered on ~~March 2~~ June 30, 2017, shall be transferred to the General Fund to be available, upon appropriation by the Legislature, for the purposes of augmenting Medi-Cal reimbursement of emergency medical air transportation and related costs, generally.

By requiring counties to create emergency medical air transportation act funds and then deposit the levy imposed by this bill into those funds, this bill would create 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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

*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. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Air ambulance services provide lifesaving emergency
- 4 transportation of the most critical patients from automobile accident
- 5 scenes directly to trauma centers. The vast majority of helicopter
- 6 scene responses are motor vehicle related.
- 7 (b) Many of these transports originate in rural areas where
- 8 ground transportation is prolonged. In some instances, however,

1 air transportation may be needed in urban areas where traffic  
2 congestion inhibits rapid transportation.

3 (c) Air ambulance services providers transport all emergency  
4 patients without knowing if the patient has any form of medical  
5 insurance or ability to pay for the service.

6 (d) Many emergency patients transported by air ambulances  
7 have no insurance and no ability to pay for the service, but these  
8 patients are given the same high level of care as those with medical  
9 insurance.

10 (e) Unlike the hospitals where air ambulance services providers  
11 deliver patients, air ambulance services providers are not eligible  
12 to apply for additional federal funding for providing services to  
13 high numbers of indigent patients pursuant to California's  
14 disproportionate share hospital (DSH) program under the Medi-Cal  
15 program.

16 (f) Unlike the hospitals and emergency physicians who treat the  
17 patients after they are delivered by helicopter, air ambulance  
18 services providers do not receive payment from the county Maddy  
19 Emergency Medical Services Fund when they provide treatment  
20 to an indigent patient.

21 (g) Emergency air ambulance services providers provide  
22 coverage to multiple counties within a 100-mile radius of their  
23 bases, and, as a result, often their transports originate in a county  
24 other than where they are based, which makes it virtually  
25 impossible for them to be funded by local tax support except in  
26 the largest of counties.

27 (h) The Medi-Cal program reimburses air ambulance services  
28 providers far below what it costs the providers to provide  
29 emergency air transportation and pays nothing if the patient is  
30 indigent and not eligible for Medi-Cal. The Medi-Cal  
31 reimbursement rates for air ambulances have not increased in over  
32 15 years.

33 (i) Currently fines and penalties on traffic violations total  
34 between one hundred eight dollars (\$108) and nineteen-thousand  
35 dollars (\$19,000), inclusive. Some of the fine and penalty money  
36 is already collected by county courts and transferred to the state.

37 (j) A small additional penalty of four dollars (\$4) per traffic  
38 violation would result in a very small percentage increase on each  
39 penalty on traffic violations, but the money collected from the  
40 penalty would go to support air ambulance services, which are the

1 most critical services that support patients who are injured as a  
2 result of a major collision.

3 (k) Air ambulance services play a key role in the statewide  
4 emergency medical services system, including disaster response  
5 and homeland security, so it is important for California to support  
6 these vital services.

7 SEC. 2. Section 76000.10 is added to the Government Code,  
8 to read:

9 76000.10. (a) This section shall be known, and may be cited,  
10 as the Emergency Medical Air Transportation Act.

11 (b) For purposes of this section:

12 (1) "Department" means the State Department of Health Care  
13 Services.

14 (2) "Director" means the Director of the State Department of  
15 Health Care Services.

16 (3) "Provider" means a provider of emergency medical air  
17 transportation services.

18 (4) "Rotary wing" means a type of aircraft, commonly referred  
19 to as a helicopter, that generates lift through the use of wings,  
20 known as rotor blades, that revolve around a mast.

21 (5) "Fixed wing" means a type of aircraft, commonly referred  
22 to as an airplane, that generates lift through the use of the forward  
23 motion of the aircraft and wings that do not revolve around a mast  
24 but are fixed in relation to the fuselage of the aircraft.

25 (6) "Air mileage rate" means the per-mileage reimbursement  
26 rate paid for services rendered by rotary-wing and fixed-wing  
27 providers.

28 (c) (1) For the purpose of implementing this section, a penalty  
29 of four dollars (\$4) shall be imposed upon every conviction for a  
30 violation of the Vehicle Code or a local ordinance adopted pursuant  
31 to the Vehicle Code, except parking offenses subject to Article 3  
32 (commencing with Section 40200) of Chapter 1 of Division 17 of  
33 the Vehicle Code.

34 (2) The penalty described in this subdivision shall be in addition  
35 to the state penalty assessed pursuant to Section 1464 of the Penal  
36 Code. However, this penalty shall not be included in the base fine  
37 used to calculate the state penalty assessment pursuant to  
38 subdivision (a) of Section 1464 of the Penal Code, the state  
39 surcharge levied pursuant to Section 1465.7 of the Penal Code,

1 *Section 70372 of the Government Code*, and to calculate the other  
 2 additional penalties levied pursuant to this chapter.

3 (d) The county board of supervisors shall establish in the county  
 4 treasury an emergency medical air transportation act fund into  
 5 which shall be deposited the moneys collected pursuant to this  
 6 section. Moneys in each county’s fund, including interest and  
 7 dividends earned thereon, shall be held by the county treasurer  
 8 separate from funds subject to transfer or division pursuant to  
 9 Section 1463 of the Penal Code.

10 (e) (1) Within ~~40~~ 30 days following the last day of each calendar  
 11 quarter of the year, the county treasurer shall transfer moneys in  
 12 the county’s emergency medical air transportation act fund to the  
 13 Controller for deposit into the Emergency Medical Air  
 14 Transportation Act Fund, which is hereby established in the State  
 15 Treasury. Notwithstanding Section 16305.7, the Emergency  
 16 Medical Air Transportation Act Fund shall include interest and  
 17 dividends earned on money in the fund. *Prior to the transfer of*  
 18 *funds from the county’s emergency medical air transportation act*  
 19 *fund to the state, the county treasurer may withhold a sufficient*  
 20 *amount from the fund to reimburse the county and the courts for*  
 21 *their actual, reasonable, and necessary costs associated with*  
 22 *administering this section. To the extent moneys are withheld by*  
 23 *the county treasurer, an accounting report detailing these costs*  
 24 *shall be sent to the department at least once per calendar year.*

25 (2) The Emergency Medical Air Transportation Act Fund shall  
 26 be administered by the State Department of Health Care Services.  
 27 Moneys in the Emergency Medical Air Transportation Act Fund  
 28 shall be made available, upon appropriation by the Legislature, to  
 29 the department to be used as follows:

30 (A) For payment of the administrative costs of the department;  
 31 ~~and the actual, reasonable, and necessary costs of the courts, and~~  
 32 ~~the counties in administering this section.~~ *in administering this*  
 33 *section.*

34 (B) Twenty percent of the fund remaining after payment of  
 35 administrative costs pursuant to subparagraph (A) shall be used  
 36 to offset the state portion of the Medi-Cal reimbursement rate for  
 37 emergency medical air transportation services.

38 (C) Eighty percent of the fund remaining after payment of  
 39 administrative costs pursuant to subparagraph (A) shall be used,  
 40 to augment emergency medical air transportation reimbursement

1 payments made through the Medi-Cal program, as set forth in  
2 paragraphs (3) and (4).

3 ~~(D) The counties and courts may apply to the department for~~  
4 ~~reimbursement by the department for their actual, reasonable, and~~  
5 ~~necessary costs associated with administering this section. The~~  
6 ~~department shall, upon appropriation by the Legislature, reimburse~~  
7 ~~counties and courts for their actual, reasonable, and necessary costs~~  
8 ~~and may, as a condition of reimbursement, require a fiscal audit~~  
9 ~~to ensure that the claimed reimbursement does not exceed the~~  
10 ~~actual, reasonable, and necessary costs.~~

11 (3) (A) The department shall seek to obtain federal matching  
12 funds by using the moneys in the Emergency Medical Air  
13 Transportation Act Fund for the purpose of augmenting Medi-Cal  
14 reimbursement paid to providers through supplemental payments  
15 administered after June 30, 2011. *emergency medical air*  
16 *transportation providers.*

17 (B) The director shall do all of the following:

18 (i) *By March 1, 2011, meet with medical air transportation*  
19 *providers to determine the most appropriate methodology to*  
20 *distribute the funds for medical air services.*

21 (ii) *Implement the methodology determined most appropriate*  
22 *in a timely manner.*

23 (iii) *Develop the methodology in collaboration with the medical*  
24 *air providers.*

25 (iv) *Submit any state plan amendments or waiver requests that*  
26 *may be necessary to implement this section.*

27 ~~(i)~~

28 (v) *Submit any state plan amendment or waiver request that*  
29 *may be necessary to implement this section.*

30 ~~(ii)~~

31 (vi) *Seek federal approvals or waivers as may be necessary to*  
32 *implement this section and to obtain federal financial participation*  
33 *to the maximum extent possible for the payments under this*  
34 *section. If federal approvals are not received, moneys in the fund*  
35 *may be distributed pursuant to this section until federal approvals*  
36 *are received.*

37 (C) *The director may give great weight to the needs of the*  
38 *emergency medical air services providers, as discussed through*  
39 *the development of the methodology.*

1 (4) (A) Upon appropriation by the Legislature, the department  
2 shall use moneys in the Emergency Medical Air Transportation  
3 Act Fund and *any* federal matching funds to increase the Medi-Cal  
4 reimbursement ~~by way of supplemental payments~~ for emergency  
5 medical air transportation services in an amount not to exceed  
6 normal and customary charges charged by the providers, ~~as~~  
7 ~~follows:~~

8 ~~(A) Supplemental payments to providers shall not be made until~~  
9 ~~there is a positive fund balance in the Emergency Medical Air~~  
10 ~~Transportation Act Fund. The supplemental payments shall be~~  
11 ~~made only in a manner that ensures that there is no additional~~  
12 ~~burden upon the state General Fund other than the payment of~~  
13 ~~revenue from penalties authorized by this section.~~

14 ~~(B) The department shall make supplemental payments for~~  
15 ~~emergency medical air transportation services for Medi-Cal patients~~  
16 ~~pursuant to this section twice annually, by August 31, and by~~  
17 ~~March 1, as follows:~~

18 ~~(i) The department shall use the total fund balance 20 days after~~  
19 ~~the end of the second quarter, ending June 30, and the fourth~~  
20 ~~quarter ending December 31, to calculate the supplemental~~  
21 ~~payment.~~

22 ~~(ii) To calculate the supplemental payment the department shall~~  
23 ~~use the amount specified in clause (i) and divide it by the total~~  
24 ~~number of Medi-Cal base rate trips paid for rotary-wing and~~  
25 ~~fixed-wing emergency medical air transportation for dates of~~  
26 ~~service corresponding to the period beginning 18 months prior to~~  
27 ~~the end of the quarter being calculated and ending 12 months prior~~  
28 ~~to the end of the same quarter. The department shall not make a~~  
29 ~~supplemental payment for the base rates for rotary-wing or~~  
30 ~~fixed-wing emergency medical air transportation that exceeds the~~  
31 ~~average Medicare rates for those services when combined with~~  
32 ~~the Medi-Cal base rate for these same services.~~

33 ~~(iii) If any funds remain after the calculation of the funds~~  
34 ~~pursuant to clause (ii), the remaining funds shall be used to make~~  
35 ~~a supplemental payment of the air mileage rates for rotary-wing~~  
36 ~~and fixed-wing emergency medical air transportation for the~~  
37 ~~Medi-Cal services in a manner similar to clause (ii), but not to~~  
38 ~~exceed the average Medicare rates paid for the same services during~~  
39 ~~this period when added to the Medi-Cal rates paid for these service.~~

1 ~~(iv) If any funds remain after the calculation of the funds~~  
2 ~~pursuant to clause (iii), the remaining funds shall not be matched~~  
3 ~~with federal funds and shall be provided as a second supplemental~~  
4 ~~payment to the base rates for rotary-wing and fixed-wing~~  
5 ~~emergency medical air transportation services for Medi-Cal~~  
6 ~~services following the methodology described in clause (ii).~~

7 *(B) Notwithstanding any other provision of law, and pursuant*  
8 *to this section, the department shall increase the Medi-Cal*  
9 *reimbursement for emergency medical air transportation services*  
10 *provided that both of the following conditions are met:*

11 *(i) Moneys in the Emergency Medical Air Transportation Act*  
12 *Fund will cover the cost of increased payments pursuant to*  
13 *subparagraph (A).*

14 *(ii) The state does not incur any General Fund expense to pay*  
15 *for the Medi-Cal emergency medical air transportation services*  
16 *increase.*

17 *(e) The assessment of penalties pursuant to this section shall*  
18 *terminate commencing January 1, 2016. Penalties assessed prior*  
19 *to January 1, 2016, shall continue to be collected, administered,*  
20 *and distributed pursuant to this section until exhausted or until*  
21 ~~March 2 June 30, 2017, whichever occurs first. On March 2 June~~  
22 ~~30, 2017, moneys remaining unexpended and unencumbered in~~  
23 ~~the Emergency Medical Air Transportation Act Fund shall be~~  
24 ~~transferred to the General Fund, to be available, upon appropriation~~  
25 ~~by the Legislature, for the purposes of augmenting Medi-Cal~~  
26 ~~reimbursement for emergency medical air transportation and related~~  
27 ~~costs, generally.~~

28 *(f) Notwithstanding the rulemaking provisions of Chapter 3.5*  
29 *(commencing with Section 11340) of Part 1 of Division 2 of the*  
30 *Government Code, the department may implement, interpret, or*  
31 *make specific this section and any applicable federal waivers and*  
32 *state plan amendments by means of all county letters, plan letters,*  
33 *plan or provider bulletins, or similar instructions without taking*  
34 *regulatory action.*

35 ~~(f)~~

36 *(g) This section shall remain in effect only until January 1, 2018,*  
37 *and as of that date is repealed, unless a later enacted statute, that*  
38 *is enacted before January 1, 2018, deletes or extends that date.*

39 ~~SEC. 3. If the Commission on State Mandates determines that~~  
40 ~~this act contains costs mandated by the state, reimbursement to~~

1 ~~local agencies and school districts for those costs shall be made~~  
2 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~  
3 ~~4 of Title 2 of the Government Code.~~

4 *SEC. 3. No reimbursement is required by this act pursuant to*  
5 *Section 6 of Article XIII B of the California Constitution because*  
6 *a local agency or school district has the authority to levy service*  
7 *charges, fees, or assessments sufficient to pay for the program or*  
8 *level of service mandated by this act, within the meaning of Section*  
9 *17556 of the Government Code.*

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**CORRECTIONS:**

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**Text—Pages 5 and 6.**

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