

Introduced by Senator Cox
(Principal coauthor: Assembly Member Smyth)
(Coauthor: Assembly Member Beall)

February 19, 2010

An act to amend Sections 10402, 10405, 14501, and 14502 of the Corporations Code, relating to corporations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1417, as introduced, Cox. Corporations for prevention of cruelty to children or animals.

Existing law authorizes corporations for the prevention of cruelty to children or animals, or both, to be formed under the Nonprofit Public Benefit Corporation Law and requires the articles of incorporation for those corporations to be endorsed, as evidence of necessity, by the Department of Justice or by a judge of the superior court of the county in which the society's principal office is located, as specified.

This bill would require these societies to provide a copy of the application for endorsement to each law enforcement agency and animal control agency having jurisdiction in the county in which the society proposes to operate. The bill would also require a judge to request and consider advice from each of these agencies prior to granting the endorsement.

Existing law requires magistrates, sheriffs, and officers of police to aid these societies in enforcing laws relating to children or animals and requires a city or county, or city and county, to pay up to \$500 per month to a society actively engaged in enforcing state laws for the prevention of cruelty to animals or children.

This bill would instead authorize local governments to enter into contracts with these societies for the enforcement of these laws. The

bill would also provide that a magistrate, sheriff, and an officer of police shall not be held civilly or criminally liable for any action within the scope of his or her employment taken in reliance upon information provided by the society, its officers, members, or agents.

Existing law requires a humane society or society for the prevention of cruelty to animals that proposes to appoint a humane officer to submit an application for appointment to a judge of the superior court for the county in which the society is located, including a copy of the resolution appointing the person, and documentation that the person has satisfactorily completed required training, as specified. Upon receipt of a report from the Department of Justice of the record, if any, of the proposed appointee, existing law requires the judge to review the appointee's qualifications and fitness to act as a humane officer, and either confirm or deny the appointment.

This bill would require these societies to provide copies of these documents to each law enforcement agency and animal control agency having jurisdiction in the county in which the society is located, as specified. The bill would also require the judge, in determining whether to confirm the appointment, to consider any documentation submitted to the judge in support of, or opposition to, the proposed appointment.

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

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

1 SECTION 1. Section 10402 of the Corporations Code is
2 amended to read:
3 10402. (a) The endorsement of a judge of the superior court
4 shall not be granted, however, unless the endorsement of the
5 Department of Justice has been first refused or withheld for more
6 than 90 days. If the endorsement of the Department of Justice is
7 withheld for more than 90 days, or refused, application may be
8 made to the judge of the superior court of the county in which the
9 principal office of the corporation is located, and if, after giving
10 due consideration to the necessity of ~~such~~ *the* corporation *and to*
11 *any advice received pursuant to subdivision (b)* and assuring
12 *himself or herself* that the incorporators are acting in good faith,
13 the judge so desires, he *or she* may endorse the articles.
14 (b) *The corporation shall provide a copy of the application*
15 *described in subdivision (a) to each law enforcement agency and*

1 *animal control agency having jurisdiction in the county in which*
2 *the corporation proposes to operate. Prior to making the*
3 *determination described in subdivision (a), a judge of the superior*
4 *court shall request and consider advice from each of those law*
5 *enforcement agencies and animal control agencies.*

6 SEC. 2. Section 10405 of the Corporations Code is amended
7 to read:

8 10405. All magistrates, sheriffs, and officers of police shall,
9 as occasion may require, aid any such corporation, its officers,
10 members, and agents, in the enforcement of all laws relating to or
11 affecting children or animals. *A magistrate, sheriff, and an officer*
12 *of police shall not be held civilly or criminally liable for any action*
13 *within the scope of his or her employment taken in reliance upon*
14 *information provided by the corporation, its officers, members, or*
15 *agents.*

16 SEC. 3. Section 14501 of the Corporations Code is amended
17 to read:

18 14501. Every society, incorporated and organized for the
19 prevention of cruelty to animals, or for the prevention of cruelty
20 to children, ~~may, in each~~ *may enter into a contract with any city,*
21 *or city and county, or county, where the society exists, while*
22 ~~actively engaged in enforcing~~ *is located, to enforce* the provisions
23 ~~of laws of this state, now or hereafter enacted,~~ for the prevention
24 of cruelty to animals, or children, or arresting, or prosecuting
25 offenders thereunder or preventing cruelty to animals or children;
26 ~~be paid as compensation therefor, from the city or county, or city~~
27 ~~and county general fund, by the board of supervisors or other~~
28 ~~governing body thereof, a sum not exceeding five hundred dollars~~
29 ~~(\$500) per calendar month, in the same manner as other claims~~
30 ~~against said city or county, or city and county, are paid.~~

31 SEC. 4. Section 14502 of the Corporations Code is amended
32 to read:

33 14502. (a) (1) (A) (i) On and after July 1, 1996, no entity,
34 other than a humane society or society for the prevention of cruelty
35 to animals, shall be eligible to apply for an appointment of any
36 individual as a level 1 or level 2 humane officer, the duty of which
37 shall be the enforcement of the laws for the prevention of cruelty
38 to animals.

1 (ii) On and after July 1, 1996, only a person who meets the
2 requirements of this section may be appointed as, or perform the
3 duties of, a humane officer.

4 (iii) Any person appointed as a humane officer prior to July 1,
5 1996, may continue to serve as a humane officer until the expiration
6 of the term of appointment only if the appointing agency maintains
7 records pursuant to subparagraph (C) documenting that both the
8 appointing agency and the humane officer meet the requirements
9 of this section.

10 (B) Each humane society or society for the prevention of cruelty
11 to animals that makes application to the court for the appointment
12 of an individual to act as a level 1 or level 2 humane officer for
13 the humane society or society for the prevention of cruelty to
14 animals shall provide with the application documentation that
15 demonstrates that the person has satisfactorily completed the
16 training requirements set forth in subdivision (i).

17 (C) Each humane society or society for the prevention of cruelty
18 to animals for which an individual is acting as a level 1 or level 2
19 humane officer shall maintain complete and accurate records
20 documenting that the individual has successfully completed all
21 requirements established in this section and shall make those
22 records available, upon request, to the superior court, the Attorney
23 General, or any entity duly authorized to review that information,
24 including the State Humane Association of California. The records
25 shall include the full name and address of each level 1 or level 2
26 humane officer.

27 (2) Any corporation incorporated for the purpose of the
28 prevention of cruelty to animals that possesses insurance of at least
29 one million dollars (\$1,000,000) for liability for bodily injury or
30 property damage may, six months after the date of its incorporation
31 and by resolution of its board of directors or trustees duly entered
32 on its minutes, appoint any number of persons, who shall be
33 citizens of the State of California, as humane officers, provided
34 that the individuals to be appointed have met the training guidelines
35 set forth in subdivision (i).

36 (3) Each appointment of a humane officer shall be by separate
37 resolution. The resolution shall state the full name and address of
38 the appointing agency, the full name of the person so appointed,
39 and the fact that he or she is a citizen of the State of California,

1 and shall also designate the number of the badge to be allotted to
2 the officer.

3 (b) (1) The humane society or society for the prevention of
4 cruelty to animals shall recommend any appointee to the judge of
5 the superior court in and for the county or city and county in which
6 the humane society is ~~incorporated~~ *located*, and shall deliver to
7 the judge a copy of the resolution appointing the person, duly
8 certified to be correct by the president and secretary of the
9 corporation and attested by its seal, together with the fingerprints
10 of the appointee taken on standard 8×8-inch cards, proof of the
11 society's proper incorporation in compliance with Part 9
12 (commencing with Section 10400) of Division 2, a copy of the
13 society's liability for bodily injury or property damage insurance
14 policy in the amount of at least one million dollars (\$1,000,000),
15 and documentation establishing that the appointee has satisfactorily
16 completed the training requirements set forth in this section.

17 (2) *The humane society or society for the prevention of cruelty*
18 *to animals shall deliver a copy of the resolution and documentation*
19 *of training described in paragraph (1), within two business days*
20 *following filing of the application for appointment with the judge,*
21 *to each law enforcement agency and animal control agency having*
22 *jurisdiction in the county in which the society is located.*

23 (c) The judge shall send a copy of the resolution, together with
24 the fingerprints of the appointee, to the Department of Justice,
25 which shall thereupon submit to the judge, in writing, a report of
26 the record in its possession, if any, of the appointee. If the
27 Department of Justice has no record of the appointee, it shall so
28 report to the judge in writing.

29 (d) Upon receipt of the report, the judge shall review the matter
30 of the appointee's qualifications and fitness to act as a humane
31 officer, *taking into consideration any documentation he or she has*
32 *received in support of, or in opposition to, the person's*
33 *appointment* and, if he or she reaffirms the appointment, shall so
34 state on a court order confirming the appointment. The appointee
35 shall thereupon file a certified copy of the reviewed court order in
36 the office of the county clerk of the county or city and county and
37 shall, at the same time, take and subscribe the oath of office
38 prescribed for constables or other peace officers.

39 (e) The county clerk shall thereupon immediately enter in a
40 book to be kept in his or her office and designated "Record of

1 Humane Officers” the name of the officer, the name of the agency
2 appointing him or her, the number of his or her badge, the name
3 of the judge appointing him or her, and the date of the filing. At
4 the time of the filing the county clerk shall collect from the officer
5 a fee of five dollars (\$5), which shall be in full for all services to
6 be performed by the county clerk under this section.

7 (f) All appointments of humane officers shall automatically
8 expire if the society disbands or legally dissolves. In addition, all
9 appointments of humane officers shall automatically expire within
10 three years from the date on which the certified copy of the court
11 order was filed with the county clerk. Officers whose appointments
12 are about to expire may only be reappointed after satisfactorily
13 completing the continuing education and training set forth in this
14 section.

15 (g) (1) The corporation appointing an officer may revoke an
16 appointment at any time by filing in the office of the county clerk
17 in which the appointment of the officer is recorded a copy of the
18 revocation in writing under the letterhead of the corporation and
19 duly certified by its executive officer. Upon the filing the county
20 clerk shall enter the fact of the revocation and the date of the filing
21 thereof opposite the name of the officer in the record of humane
22 officers.

23 (2) Notwithstanding paragraph (1), a revocation hearing may
24 be initiated by petition from any duly authorized sheriff or local
25 police agency or the State Humane Association of California. The
26 petition shall show cause why an appointment should be revoked
27 and shall be made to the superior court in the jurisdiction of the
28 appointment.

29 (h) The corporation or local humane society appointing the
30 humane officer shall pay the training expenses of the humane
31 officer attending the training required pursuant to this section.

32 (i) (1) (A) A level 1 humane officer is not a peace officer, but
33 may exercise the powers of a peace officer at all places within the
34 state in order to prevent the perpetration of any act of cruelty upon
35 any animal and to that end may summon to his or her aid any
36 bystander. A level 1 humane officer may use reasonable force
37 necessary to prevent the perpetration of any act of cruelty upon
38 any animal.

39 (B) A level 1 humane officer may make arrests for the violation
40 of any penal law of this state relating to or affecting animals in the

1 same manner as any peace officer and may also serve search
2 warrants.

3 (C) A level 1 humane officer is authorized to carry firearms
4 while exercising the duties of a humane officer, upon satisfactory
5 completion of the training specified in subparagraph (D) and the
6 basic training for a level 1 reserve officer by the Commission on
7 Peace Officer Standards and Training pursuant to Section 13510.1
8 of the Penal Code.

9 (D) A level 1 humane officer shall, prior to appointment, provide
10 evidence satisfactory to the appointing agency that he or she has
11 successfully completed courses of training in the following
12 subjects:

13 (i) At least 20 hours of a course of training in animal care
14 sponsored or provided by an accredited postsecondary institution
15 or any other provider approved by the California Veterinary
16 Medical Association, the focus of which shall be the identification
17 of disease, injury, and neglect in domestic animals and livestock.

18 (ii) At least 40 hours of a course of training in the state humane
19 laws relating to the powers and duties of a humane officer,
20 sponsored or provided by an accredited postsecondary institution,
21 law enforcement agency, or the State Humane Association of
22 California.

23 (E) A person may not be appointed as a level 1 humane officer
24 until he or she has satisfied the requirements in Sections 1029,
25 1030, and 1031 of the Government Code. A humane society or
26 society for the prevention of cruelty to animals shall complete a
27 background investigation, using standards defined by the
28 Commission on Peace Officer Standards and Training as guidelines
29 for all level 1 humane officer appointments.

30 (F) In order to be eligible for reappointment, a level 1 humane
31 officer shall complete ongoing weapons training and range
32 qualifications at least every six months pursuant to subdivision ~~(s)~~
33 *(t)* of Section 830.3 of the Penal Code and shall, every three years,
34 complete 40 hours of continuing education and training relating
35 to the powers and duties of a humane officer, which education and
36 training shall be provided by an accredited postsecondary
37 institution, law enforcement agency, or the State Humane
38 Association of California.

39 (G) (i) Notwithstanding any other provision of this section, a
40 level 1 humane officer may carry firearms only if authorized by,

1 and only under the terms and conditions specified by, his or her
2 appointing agency.

3 (ii) Notwithstanding any other provision of this section, a level
4 1 humane officer shall not be authorized to carry firearms unless
5 and until his or her appointing agency has adopted a policy on the
6 use of deadly force by its officers and the officer has been
7 instructed in that policy.

8 (2) (A) A level 2 humane officer is not a peace officer, but may
9 exercise the powers of a peace officer at all places within the state
10 in order to prevent the perpetration of any act of cruelty upon any
11 animal and to that end may summon to his or her aid any bystander.
12 A level 2 humane officer may use reasonable force necessary to
13 prevent the perpetration of any act of cruelty upon any animal.

14 (B) A level 2 humane officer may make arrests for the violation
15 of any penal law of this state relating to or affecting animals in the
16 same manner as any peace officer and may serve search warrants
17 during the course and within the scope of employment, upon the
18 successful completion of a course relating to the exercise of the
19 police powers specified in Section 832 of the Penal Code, except
20 the power to carry and use firearms.

21 (C) A level 2 humane officer is not authorized to carry firearms.

22 (D) A level 2 humane officer shall, prior to appointment, provide
23 evidence satisfactory to the appointing agency that he or she has
24 successfully completed courses of training in the following
25 subjects:

26 (i) At least 20 hours of a course of training in animal care
27 sponsored or provided by an accredited postsecondary institution
28 or any other provider approved by the California Veterinary
29 Medical Association, the focus of which is the identification of
30 disease, injury, and neglect in domestic animals and livestock.

31 (ii) At least 40 hours of a course of training in the state humane
32 laws relating to the powers and duties of a humane officer,
33 sponsored or provided by an accredited postsecondary institution,
34 law enforcement agency, or the State Humane Association of
35 California.

36 (E) In order to be eligible for reappointment, a level 2 humane
37 officer shall, every three years, complete 40 hours of continuing
38 education and training relating to the powers and duties of a
39 humane officer, which education and training shall be provided

1 by an accredited postsecondary institution, law enforcement
2 agency, or the State Humane Association of California.

3 (j) Every humane officer shall, when making an arrest, exhibit
4 and expose a suitable badge to be adopted by the corporation under
5 this title of which he or she is a member which shall bear its name
6 and a number. Uniforms worn by humane officers shall
7 prominently display the name of the appointing agency. Humane
8 officer uniforms shall not display the words “state” or “California,”
9 unless part of the appointing agency’s incorporated name.

10 (k) Any person resisting a humane officer in the performance
11 of his or her duty as provided in this section, is guilty of a
12 misdemeanor. Any person who has not been appointed and
13 qualified as a humane officer as provided in this section, or whose
14 appointment has been revoked as provided in this section, or whose
15 appointment, having expired, has not been renewed as provided
16 in this section, who shall represent himself or herself to be or shall
17 attempt to act as an officer shall be guilty of a misdemeanor.

18 (l) No humane officer shall serve a search warrant without
19 providing prior notice to local law enforcement agencies operating
20 within that jurisdiction.

21 (m) Any humane society, society for the prevention of cruelty
22 to animals, or person, who knowingly provides a court with false
23 or forged documentation for the appointment of a humane officer,
24 is guilty of a misdemeanor and shall be punished by a fine of up
25 to ten thousand dollars (\$10,000).

26 (n) A humane society or a society for the prevention of cruelty
27 to animals shall notify the sheriff of the county in which the society
28 is ~~incorporated~~ *located*, prior to appointing a humane officer, of
29 the society’s intent to enforce laws for the prevention of cruelty
30 to animals. Humane societies or societies for the prevention of
31 cruelty to animals incorporated and enforcing animal cruelty laws
32 prior to January 1, 1996, that intend to continue to enforce those
33 laws, shall notify the sheriff of the county in which the society is
34 ~~incorporated~~ *located* by March 1, 1996.

35 (o) Except as otherwise provided by this section, a humane
36 officer shall serve only in the county in which he or she is
37 appointed. A humane officer may serve temporarily in a county
38 other than that in which he or she is appointed if the humane officer
39 gives notice requesting consent to the sheriff of the county in which
40 he or she intends to serve, and acquires consent from the sheriff

1 of the county in which he or she intends to serve, or from a person
2 authorized by the sheriff to give that consent. A sheriff shall
3 promptly respond to any request by a humane officer to serve in
4 his or her jurisdiction and any request shall not be unreasonably
5 denied.

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