

ASSEMBLY BILL

No. 1994

Introduced by Assembly Member Huber

February 23, 2012

An act to add Sections 55.5 and 55.6 to the Civil Code, and to amend Section 4452 of the Government Code, relating to disability access.

LEGISLATIVE COUNSEL'S DIGEST

AB 1994, as introduced, Huber. Disability access: causes of action.

Under existing law, a person, firm, or corporation that interferes with the access rights of a disabled individual is liable for the actual damages of each offense and any amount determined by a judge or jury of up to 3 times the amount of the actual damages, but in no case less than \$1,000. Existing law requires the State Architect to develop and submit for approval and adoption building standards for making buildings, structures, sidewalks, curbs, and related facilities accessible to, and usable by, persons with disabilities, as specified.

This bill would require every county to establish a program that requires an alleged aggrieved party under the state access laws to file a complaint with the county planning department in which an alleged violation occurred. The bill would require the county planning department to refer every complaint received under this act to a certified access specialist to determine what measures are necessary to remedy the alleged violation and the estimated timeframe for remedy. The bill would require the adoption of a compliance schedule and require issuance of building permits to the owner, agent, or responsible party of the alleged violation. The bill would require all complaints to be subject to the compliance schedule prior to a cause of action being filed. The bill would authorize the county to charge a fee to the owner, agent,

or responsible party of the alleged violation for the costs of the program and the compliance schedule.

By imposing additional duties on a county, 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 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 55.5 is added to the Civil Code, to read:
2 55.5. (a) Notwithstanding any other law, every county shall
3 establish a program that requires an alleged aggrieved party under
4 this chapter to file a complaint with the county planning department
5 in which an alleged violation occurred.
6 (b) A county planning department shall refer every complaint
7 received under this section to a certified access specialist to
8 determine what measures are necessary to remedy the alleged
9 violation and the estimated timeframe for remedy. The county
10 planning department shall notify the owner of the property, agent,
11 or other responsible party where the alleged violation occurred of
12 any complaint filed under this section and the measures that are
13 required to be taken to remedy the alleged violation and the
14 timeframe for compliance.
15 (c) The county planning department shall be guided by the
16 recommendations of the certified access specialist, but may modify
17 the recommendations, as needed. The county planning department
18 shall approve the final guidelines and timeframe for compliance
19 and shall expeditiously submit the compliance schedule to the
20 alleged aggrieved party and the owner of the property, agent, or
21 other responsible party. The owner of the property, agent, or other
22 responsible party shall be subject to the compliance schedule for
23 repair of any alleged violation.
24 (d) The county planning department or other county entity shall
25 issue building permits to the owner of the property, agent, or other
26 responsible party for purposes of compliance with this section.

1 The issuance of building permits shall be subject to existing statutes
2 and regulations, including existing fees.

3 (e) If the owner of the property, agent, or other responsible party
4 fails to comply with the compliance schedule or any of the
5 timeframes for repair, the alleged aggrieved party may file a cause
6 of action at any point in time thereafter.

7 (f) Notwithstanding subdivision (e), the county planning
8 department may, at any point during the time for repair, amend
9 the compliance schedule upon the request of the owner of the
10 property, agent, or other responsible party, if the following
11 requirements are met:

12 (1) The owner, agent, or other responsible party proves that he
13 or she has been diligent in meeting, and has made progress in
14 attempting to meet, the requirements of the compliance schedule.
15 The circumstances for which the county planning department may
16 approve the amendment of the compliance schedule include proof
17 of incremental weather or backordered, destroyed, or stolen
18 supplies or equipment.

19 (2) The alleged aggrieved party is provided notice of the
20 amendment prior to amendment.

21 (3) The alleged aggrieved party is provided an opportunity to
22 rebut the statements of the owner, agent, or other responsible party.

23 (4) The county planning department weighs the evidence and
24 provides on the record the reason for approving or denying the
25 amendment of the compliance schedule.

26 (g) All alleged violations under this chapter shall be subject to
27 this section prior to a cause of action being filed.

28 (h) A county may charge the owner, agent, or other responsible
29 party a reasonable fee that does not exceed the costs of operating
30 the program and implementation of compliance schedules.

31 SEC. 2. Section 55.6 is added to the Civil Code, to read:

32 55.6. Notwithstanding any other law, prior to filing a claim
33 under Section 51, 52, 54, 54.1, or 54.3, or Section 4450 or 4452
34 of the Government Code, an alleged aggrieved party shall notify
35 the county in which the alleged violation occurred by personal
36 service, in accordance with applicable state or federal laws, or
37 certified mail, of all alleged special access violations for which a
38 claim may be filed by the alleged aggrieved party. The alleged
39 aggrieved party may not file any cause of action for an alleged
40 violation until the county determines that the alleged violation has

1 not been remedied pursuant to the requirements set forth in Section
2 55.5.

3 SEC. 3. Section 4452 of the Government Code is amended to
4 read:

5 4452. (a) It is the intent of the Legislature that the building
6 standards published in the State Building Standards Code relating
7 to access by the physically handicapped and the other regulations
8 adopted by the State Architect pursuant to Section 4450 shall be
9 used as minimum requirements to insure that buildings, structures
10 and related facilities covered by this chapter are accessible to, and
11 functional for, the physically handicapped to, through, and within
12 their doors, without loss of function, space, or facility where the
13 general public is concerned.

14 ~~Any~~

15 (b) Any unauthorized deviation from ~~such~~ those regulations or
16 building standards shall be rectified by full compliance within 90
17 days after discovery of the deviation.

18 (c) *Notwithstanding subdivision (b), prior to any action*
19 *commenced for an alleged violation of Section 4450 or this section,*
20 *the notice requirements and procedures specified in Sections 55.5*
21 *and 55.6 of the Civil Code shall apply to the alleged aggrieved*
22 *party.*

23 SEC. 4. No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution because
25 a local agency or school district has the authority to levy service
26 charges, fees, or assessments sufficient to pay for the program or
27 level of service mandated by this act, within the meaning of Section
28 17556 of the Government Code.