

AMENDED IN SENATE JANUARY 4, 2012

AMENDED IN SENATE APRIL 26, 2011

AMENDED IN SENATE MARCH 22, 2011

**SENATE BILL**

**No. 616**

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**Introduced by Senator DeSaulnier  
(Coauthor: Senator Alquist)**

February 18, 2011

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~~An act to add Article 5.7 (commencing with Section 14187) to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, relating to public health. An act to amend Section 1363.05 of the Civil Code, relating to common interest developments.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 616, as amended, DeSaulnier. ~~Medi-Cal: grants: prevention of chronic diseases. Common interest developments: open meetings.~~

*Existing law provides for the creation of common interest developments and requires that a common interest development be managed by an association that may or may not be incorporated. Existing law prescribes requirements for meetings of the board of directors of the association that manages the development, and requires notice of these meetings to be given to the members of the association at least 4 days prior to the meeting, except as specified. Existing law requires that notice for a common interest development association meeting that will be held solely in executive session be given to members of the association at least 2 days prior to the meeting, except as specified.*

*Existing law prohibits the board from conducting a meeting via a series of electronic transmissions, such as electronic mail, except to*

*conduct an emergency meeting. Existing law authorizes the use of electronic transmissions to conduct an emergency meeting if all members of the board consent in writing to that action, as specified.*

*This bill would make clarifying changes to these provisions.*

~~Existing law establishes the Medi-Cal program, administered by the State Department of Health Care Services, under which basic health care services are provided to qualified low-income persons. The Medi-Cal program is, in part, governed and funded by federal Medicaid provisions.~~

~~Under federal law, the Patient Protection and Affordable Care Act, the Centers for Medicare and Medicaid Services will award grants pursuant to the Medicaid Incentives for Prevention of Chronic Diseases Program to selected states for a program that provides financial and nonfinancial incentives to Medicaid beneficiaries who participate in prevention programs and demonstrate changes in health risk and outcomes.~~

~~This bill would require the department to pursue this grant. This bill would also require, if California is awarded a grant, the department to design, implement, and report on the program, as prescribed.~~

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

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

1     SECTION 1. Section 1363.05 of the Civil Code is amended to  
2     read:

3     1363.05. (a) This section shall be known and may be cited as  
4     the Common Interest Development Open Meeting Act.

5     (b) Any member of the association may attend meetings of the  
6     board of directors of the association, except when the board  
7     adjourns to, or meets solely in, executive session to consider  
8     litigation, matters relating to the formation of contracts with third  
9     parties, member discipline, personnel matters, or to meet with a  
10    member, upon the member's request, regarding the member's  
11    payment of assessments, as specified in Section 1367 or 1367.1.  
12    The board of directors of the association shall meet in executive  
13    session, if requested by a member who may be subject to a fine,  
14    penalty, or other form of discipline, and the member shall be  
15    entitled to attend the executive session. As specified in paragraph  
16    (2) of subdivision (k), a member of the association shall be entitled

1 to attend a teleconference meeting or the portion of a teleconference  
2 meeting that is open to members, and that meeting or portion of  
3 the meeting shall be audible to the members in a location specified  
4 in the notice of the meeting.

5 (c) Any matter discussed in executive session shall be generally  
6 noted in the minutes of the immediately following meeting that is  
7 open to the entire membership.

8 (d) The minutes, minutes proposed for adoption that are marked  
9 to indicate draft status, or a summary of the minutes, of any  
10 meeting of the board of directors of an association, other than an  
11 executive session, shall be available to members within 30 days  
12 of the meeting. The minutes, proposed minutes, or summary  
13 minutes shall be distributed to any member of the association upon  
14 request and upon reimbursement of the association's costs for  
15 making that distribution.

16 (e) Members of the association shall be notified in writing at  
17 the time that the pro forma budget required in Section 1365 is  
18 distributed, or at the time of any general mailing to the entire  
19 membership of the association, of their right to have copies of the  
20 minutes of meetings of the board of directors, and how and where  
21 those minutes may be obtained.

22 (f) Unless the bylaws provide for a longer period of notice,  
23 members shall be given notice of the time and place of a meeting  
24 as defined in subdivision (k), except for an emergency meeting or  
25 a meeting that will be held solely in executive session, at least four  
26 days prior to the meeting. Except for an emergency meeting,  
27 members shall be given notice of the time and place of a meeting  
28 that will be held solely in executive session at least two days prior  
29 to the meeting. Notice shall be given by posting the notice in a  
30 prominent place or places within the common area and by mail to  
31 any owner who had requested notification of board meetings by  
32 mail, at the address requested by the owner. Notice may also be  
33 given by mail, by delivery of the notice to each unit in the  
34 development, by newsletter or similar means of communication,  
35 or, with the consent of the member, by electronic means. The notice  
36 shall contain the agenda for the meeting.

37 (g) An emergency meeting of the board may be called by the  
38 president of the association, or by any two members of the  
39 governing body other than the president, if there are circumstances  
40 that could not have been reasonably foreseen which require

1 immediate attention and possible action by the board, and which  
2 of necessity make it impracticable to provide notice as required  
3 by this section.

4 (h) The board of directors of the association shall permit any  
5 member of the association to speak at any meeting of the  
6 association or the board of directors, except for meetings of the  
7 board held in executive session. A reasonable time limit for all  
8 members of the association to speak to the board of directors or  
9 before a meeting of the association shall be established by the  
10 board of directors.

11 (i) (1) Except as described in paragraphs (2) to (4), inclusive,  
12 the board of directors of the association may not discuss or take  
13 action on any item at a nonemergency meeting unless the item was  
14 placed on the agenda included in the notice that was posted and  
15 distributed pursuant to subdivision (f). This subdivision does not  
16 prohibit a resident who is not a member of the board from speaking  
17 on issues not on the agenda.

18 (2) Notwithstanding paragraph (1), a member of the board of  
19 directors, a managing agent or other agent of the board of directors,  
20 or a member of the staff of the board of directors, may do any of  
21 the following:

22 (A) Briefly respond to statements made or questions posed by  
23 a person speaking at a meeting as described in subdivision (h).

24 (B) Ask a question for clarification, make a brief announcement,  
25 or make a brief report on his or her own activities, whether in  
26 response to questions posed by a member of the association or  
27 based upon his or her own initiative.

28 (3) Notwithstanding paragraph (1), the board of directors or a  
29 member of the board of directors, subject to rules or procedures  
30 of the board of directors, may do any of the following:

31 (A) Provide a reference to, or provide other resources for factual  
32 information to, its managing agent or other agents or staff.

33 (B) Request its managing agent or other agents or staff to report  
34 back to the board of directors at a subsequent meeting concerning  
35 any matter, or take action to direct its managing agent or other  
36 agents or staff to place a matter of business on a future agenda.

37 (C) Direct its managing agent or other agents or staff to perform  
38 administrative tasks that are necessary to carry out this subdivision.

39 (4) (A) Notwithstanding paragraph (1), the board of directors  
40 may take action on any item of business not appearing on the

1 agenda posted and distributed pursuant to subdivision (f) under  
2 any of the following conditions:

3 (i) Upon a determination made by a majority of the board of  
4 directors present at the meeting that an emergency situation exists.  
5 An emergency situation exists if there are circumstances that could  
6 not have been reasonably foreseen by the board, that require  
7 immediate attention and possible action by the board, and that, of  
8 necessity, make it impracticable to provide notice.

9 (ii) Upon a determination made by the board by a vote of  
10 two-thirds of the members present at the meeting, or, if less than  
11 two-thirds of total membership of the board is present at the  
12 meeting, by a unanimous vote of the members present, that there  
13 is a need to take immediate action and that the need for action  
14 came to the attention of the board after the agenda was posted and  
15 distributed pursuant to subdivision (f).

16 (iii) The item appeared on an agenda that was posted and  
17 distributed pursuant to subdivision (f) for a prior meeting of the  
18 board of directors that occurred not more than 30 calendar days  
19 before the date that action is taken on the item and, at the prior  
20 meeting, action on the item was continued to the meeting at which  
21 the action is taken.

22 (B) Before discussing any item pursuant to this paragraph, the  
23 board of directors shall openly identify the item to the members  
24 in attendance at the meeting.

25 (j) (1) The board of directors shall not take action on any item  
26 of business outside of a meeting.

27 (2) (A) Notwithstanding Section 7211 of the Corporations  
28 Code, the board of directors shall not conduct a meeting via a series  
29 of electronic transmissions, including, but not limited to, electronic  
30 mail, except as specified in subparagraph (B).

31 (B) Electronic transmissions may be used as a method of  
32 conducting an emergency meeting if all members of the board,  
33 individually or collectively, consent in writing to that action, and  
34 if the written consent or consents are filed with the minutes of the  
35 meeting of the board. ~~Written consent to conduct an emergency~~  
36 ~~meeting~~ *These written consents* may be transmitted electronically.

37 (k) As used in this section:

38 (1) “Item of business” means any action within the authority of  
39 the board, except those actions that the board has validly delegated  
40 to any other person or persons, managing agent, officer of the

1 association, or committee of the board comprising less than a  
2 majority of the directors.

3 (2) “Meeting” means either of the following:

4 (A) A congregation of a majority of the members of the board  
5 at the same time and place to hear, discuss, or deliberate upon any  
6 item of business that is within the authority of the board.

7 (B) A teleconference in which a majority of the members of the  
8 board, in different locations, are connected by electronic means,  
9 through audio or video or both. A teleconference meeting shall be  
10 conducted in a manner that protects the rights of members of the  
11 association and otherwise complies with the requirements of this  
12 title. Except for a meeting that will be held solely in executive  
13 session, the notice of the teleconference meeting shall identify at  
14 least one physical location so that members of the association may  
15 attend and at least one member of the board of directors shall be  
16 present at that location. Participation by board members in a  
17 teleconference meeting constitutes presence at that meeting as long  
18 as all board members participating in the meeting are able to hear  
19 one another and members of the association speaking on matters  
20 before the board.

21 ~~SECTION 1. The Legislature finds and declares all of the~~  
22 ~~following:~~

23 ~~(a) The President of the United States signed comprehensive~~  
24 ~~health reform into law on March 23, 2010. The federal Patient~~  
25 ~~Protection and Affordable Care Act (Public Law 111-148) and the~~  
26 ~~federal Health Care and Education Reconciliation Act of 2010~~  
27 ~~(Public Law 111-152) represent a significant reform of the nation’s~~  
28 ~~health delivery system, including many provisions designed to~~  
29 ~~promote prevention, wellness, and patient-centered health~~  
30 ~~outcomes.~~

31 ~~(b) Federal health reform has several provisions that focus on~~  
32 ~~prevention and health promotion, including community-based~~  
33 ~~obesity prevention programs, community transformation grants,~~  
34 ~~nutrition labeling, individualized wellness plan pilots, and~~  
35 ~~workplace wellness programs.~~

36 ~~(c) Under the federal Patient Protection and Affordable Care~~  
37 ~~Act (Public Law 111-148), states may apply to the federal Centers~~  
38 ~~for Medicare and Medicaid Services (CMS) for grants to fund~~  
39 ~~programs that demonstrate changes in health risk and outcomes,~~  
40 ~~including, but not limited to, the adoption of healthy behaviors.~~

1     ~~(d) CMS has announced an invitation for proposals from states~~  
2 ~~to compete for grant awards under the Medicaid Incentives for~~  
3 ~~Prevention of Chronic Diseases Program for a program that~~  
4 ~~provides financial and nonfinancial incentives to Medicaid~~  
5 ~~beneficiaries who participate in prevention programs and~~  
6 ~~demonstrate changes in health risk and outcomes. The purpose of~~  
7 ~~the Medicaid Incentives for Prevention of Chronic Diseases~~  
8 ~~Program is to test and evaluate the effect of state grant awarded~~  
9 ~~programs on the use of health care services by Medicaid~~  
10 ~~beneficiaries participating in the program, the extent to which~~  
11 ~~populations, including, but not limited to, adults with disabilities,~~  
12 ~~adults with chronic illnesses, and children with special health care~~  
13 ~~needs, are able to participate in the program, the level of~~  
14 ~~satisfaction of Medicaid beneficiaries with respect to the~~  
15 ~~accessibility and quality of health care services provided through~~  
16 ~~the program, and the administrative costs incurred by state agencies~~  
17 ~~responsible for the administration of the program.~~

18     ~~(e) California has a strong history of public health prevention~~  
19 ~~programs, including, but not limited to, one of the nation’s leading~~  
20 ~~tobacco control programs. Since 1989, there has been a 35 percent~~  
21 ~~decrease in smoking prevalence, a 61 percent decline in per capita~~  
22 ~~cigarette consumption, and a decrease in lung cancer incidence~~  
23 ~~that is over three times the rate of decline seen in the rest of the~~  
24 ~~nation. Collectively, the program’s efforts have saved the state~~  
25 ~~\$86 billion in direct health care costs.~~

26     ~~(f) Unfortunately, California’s priority populations remain at~~  
27 ~~greater risk of tobacco use, disease, and death. African American~~  
28 ~~males continue to have the highest smoking prevalence, 21.3~~  
29 ~~percent, compared to their counterparts in all other major race and~~  
30 ~~ethnicity groups who smoke at a range between 14.9 percent and~~  
31 ~~17.2 percent, inclusive. African American and non-Hispanic white~~  
32 ~~females also have significantly higher smoking prevalence rates,~~  
33 ~~of 17.3 percent and 12.5 percent respectively, compared to Hispanic~~  
34 ~~and Asian and Pacific Islander females whose smoking prevalence~~  
35 ~~rates are 7.1 percent and 5.5 percent, respectively. However, the~~  
36 ~~most startling evidence of disparity lies with smoking prevalence~~  
37 ~~among low-income populations.~~

38     ~~(g) Rising health care costs are recognized as an unsustainable~~  
39 ~~growing component of the state budget. A National Health Policy~~  
40 ~~Forum paper reported that, “unless the need for health care is~~

1 reduced by significantly improving the health of the American  
2 people, it will be difficult if not impossible to bring health care  
3 costs under control.” Further, it has been noted that offering  
4 interventions that address the behavioral or social circumstances  
5 that influence participation in preventive health services may  
6 contribute to improving health and decreasing growth in health  
7 care expenditures.

8 (h) California will be a national model for public health  
9 interventions and prevention and wellness programs. Communities  
10 and individuals must be empowered to make changes that best  
11 address their circumstances and resource needs.

12 SEC. 2. Article 5.7 (commencing with Section 14187) is added  
13 to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions  
14 Code, to read:

15  
16 Article 5.7. Incentives for Prevention of Chronic Diseases  
17 Program  
18

19 14187. (a) The State Department of Health Care Services shall  
20 pursue a Medicaid Incentives for Prevention of Chronic Diseases  
21 Program grant, as established pursuant to the federal Patient  
22 Protection and Affordable Care Act (Public Law 111-148), to offer  
23 incentives to Medi-Cal enrollees who adopt healthy behaviors and  
24 habits.

25 (b) The department shall submit a notice of intent to apply and  
26 a complete grant application to the federal Centers for Medicare  
27 and Medicaid Services (CMS). The application shall address at  
28 least one of the following prevention goals:

- 29 (1) Tobacco cessation.
- 30 (2) Controlling or reducing weight.
- 31 (3) Lowering cholesterol.
- 32 (4) Lowering blood pressure.
- 33 (5) Avoiding the onset of diabetes or improving the management  
34 of the condition.

35 (c) If California is awarded a Medicaid Incentives for Prevention  
36 of Chronic Diseases Program grant, the department shall do all of  
37 the following:

- 38 (1) Apply annually for incremental funding.
- 39 (2) Design and implement a program in accordance with the  
40 Medicaid Incentives for Prevention of Chronic Diseases Program

1 ~~that operates for at least three years to provide financial and~~  
2 ~~nonfinancial incentives to Medi-Cal beneficiaries of all ages who~~  
3 ~~participate in prevention programs and demonstrate changes in~~  
4 ~~health risk and outcomes, including, but not limited to, the adoption~~  
5 ~~of healthy behaviors. The program shall be designed and uniquely~~  
6 ~~suited to address the needs of Medi-Cal beneficiaries to help~~  
7 ~~individuals achieve one or more of the following:~~  
8 ~~(A) The cessation of the use of tobacco products.~~  
9 ~~(B) Control or reduction in weight.~~  
10 ~~(C) Lower cholesterol.~~  
11 ~~(D) Lower blood pressure.~~  
12 ~~(E) The avoidance of the onset of diabetes, or in the case of a~~  
13 ~~diabetic, an improvement in the management of that condition.~~  
14 ~~(3) Ensure that the program is comprehensive, evidence-based,~~  
15 ~~widely available, and easily accessible. The program shall use~~  
16 ~~relevant evidence-based research and resources, including, but not~~  
17 ~~limited to, the Guide to Community Preventive Services, the Guide~~  
18 ~~to Clinical Preventive Services, and the National Registry of~~  
19 ~~Evidence-Based Programs.~~  
20 ~~(4) Engage in an outreach and education campaign to make~~  
21 ~~Medi-Cal beneficiaries and Medi-Cal participating providers aware~~  
22 ~~of the program.~~  
23 ~~(5) Work collaboratively to develop the program, incorporate~~  
24 ~~stakeholders in the process, conduct a state-level evaluation, and~~  
25 ~~fulfill reporting requirements specified by CMS.~~  
26 ~~(6) Develop and implement a system to do all of the following:~~  
27 ~~(A) Track Medi-Cal beneficiary participation in the program~~  
28 ~~and validate changes in health risk and outcomes with clinical~~  
29 ~~data, including, but not limited to, the adoption and maintenance~~  
30 ~~of health behaviors by participating beneficiaries.~~  
31 ~~(B) To the extent practicable, establish standards and health~~  
32 ~~status targets for Medi-Cal beneficiaries participating in the~~  
33 ~~program and measure the degree to which the standards and targets~~  
34 ~~are met.~~  
35 ~~(C) Evaluate the effectiveness of the program and provide any~~  
36 ~~evaluations to the United States Secretary of Health and Human~~  
37 ~~Services and the relevant fiscal and policy committees of the~~  
38 ~~California Legislature.~~  
39 ~~(D) Report to the United States Secretary of Health and Human~~  
40 ~~Services and the relevant fiscal and policy committees of the~~

1 California Legislature on processes that have been developed and  
2 lessons learned from the program.  
3 ~~(E) Report on preventive services as part of required reporting~~  
4 ~~on quality measures for Medicaid managed care programs.~~  
5 ~~(d) The reporting requirements to the relevant fiscal and policy~~  
6 ~~committees of the California Legislature in subparagraph (C) or~~  
7 ~~(D) of paragraph (6) of subdivision (e) shall become inoperative~~  
8 ~~on January 1, 2016.~~  
9 ~~(e) The department may enter into arrangements with providers~~  
10 ~~participating in Medi-Cal, community-based organizations,~~  
11 ~~faith-based organizations, public-private partnerships, Indian tribes,~~  
12 ~~or similar entities or organizations to carry out the program.~~  
13 ~~(f) To the extent permitted by federal law, any incentives~~  
14 ~~provided to a Medi-Cal beneficiary participating in a program~~  
15 ~~described in this section shall not be taken into account for~~  
16 ~~purposes of determining the beneficiary's eligibility for, or amount~~  
17 ~~of, benefits under the Medicaid program or any program funded~~  
18 ~~in whole or in part with federal funds.~~