

AMENDED IN SENATE MAY 18, 2016

AMENDED IN ASSEMBLY APRIL 4, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2341**

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**Introduced by Assembly Member ~~Lackey~~ *Obernolte***

February 18, 2016

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An act to amend Section 1252 of the Health and Safety Code, relating to health facilities; add Section 69614.5 to the Government Code, relating to judgeships.

LEGISLATIVE COUNSEL'S DIGEST

AB 2341, as amended, ~~Lackey~~ *Obernolte*. ~~Health facilities: special services. Allocation of vacant judgeships.~~

*Existing law specifies the number of judges for the superior court of each county. Existing law allocates additional judgeships to the various counties in accordance with uniform standards for factually determining additional judicial need in each county, as updated and approved by the Judicial Council, pursuant to the Update of Judicial Needs Study, based on specified criteria, including, among others, workload standards that represent the average amount of time of bench and nonbench work required to resolve each case type.*

*This bill would require the allocation of up to 5 vacant judgeships, as defined, from superior courts with more authorized judgeships than their assessed judicial need to superior courts with fewer authorized judgeships than their assessed judicial need. The bill would require the allocation to be in accordance with a methodology approved by the Judicial Council, as specified, and would require the determination of a superior court's assessed judicial need to be in accordance with the*

*above uniform standards and be based on the criteria described above. The bill would require the Judicial Council, if a vacant judgeship is eligible for allocation to another superior court, to promptly notify the applicable courts, the Legislature, and the Governor that the judgeship shall be allocated to another court.*

*This bill would also make a statement of legislative intent regarding the authority of the Legislature, the Governor, and the Chief Justice of California.*

~~Existing law provides for the licensure and regulation of health facilities by the State Department of Public Health and prohibits a health facility from providing a special service without the approval of the department. Under existing law, a violation of these provisions is a crime. Existing law defines a “special service” to mean a functional division, department, or unit of a health facility that is organized, staffed, and equipped to provide a specific type of patient care and that has been identified by regulations of the department and for which the department has established special standards for quality of care. Under existing law, “special services” includes physical therapy services, occupational therapy services, or speech pathology and audiology services provided by a nursing facility to outpatients.~~

~~This bill would additionally define “special services” to mean dialysis, peritoneal, and infusion services as may be approved by the department for nursing facilities and skilled nursing facilities that are not identified in regulations of the department, if the licensee can demonstrate to the department that the special service will operate in accordance with a minimum standard for quality of care. The bill would require a licensee applying to the department for approval of special services that are not identified by regulations of the department to submit an application and other information, as specified. By expanding the application of an existing crime, this 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-no*.

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

1     *SECTION 1. It is the intent of the Legislature that this act shall*  
2 *not be construed to limit any of the following:*

3     *(a) The authority of the Legislature to create and fund new*  
4 *judgeships pursuant to Section 4 of Article VI of the California*  
5 *Constitution.*

6     *(b) The authority of the Governor to appoint a person to fill a*  
7 *vacancy pursuant to subdivision (c) of Section 16 of Article VI of*  
8 *the California Constitution.*

9     *(c) The authority of the Chief Justice of California to assign*  
10 *judges pursuant to subdivision (e) of Section 6 of Article VI of the*  
11 *California Constitution.*

12     *SEC. 2. Section 69614.5 is added to the Government Code, to*  
13 *read:*

14     69614.5. *(a) To provide for a more equitable distribution of*  
15 *judgeships and upon notice to the applicable courts, up to five*  
16 *vacant judgeships shall be allocated from superior courts with*  
17 *more authorized judgeships than their assessed judicial need to*  
18 *superior courts with fewer authorized judgeships than their*  
19 *assessed judicial need pursuant to the requirements of this section.*

20     *(b) The allocation of vacant judgeships pursuant to subdivision*  
21 *(a) shall be in accordance with a methodology approved by the*  
22 *Judicial Council after solicitation of public comments. The*  
23 *determination of a superior court's assessed judicial need shall*  
24 *be in accordance with the uniform standards for factually*  
25 *determining additional judicial need in each county, as updated*  
26 *and approved by the Judicial Council, pursuant to the Update of*  
27 *Judicial Needs Study, based on the criteria set forth in subdivision*  
28 *(b) of Section 69614.*

29     *(c) If a judgeship in a superior court becomes vacant, the*  
30 *Judicial Council shall determine whether the judgeship is eligible*  
31 *for allocation to another superior court under the methodology,*  
32 *standards, and criteria described in subdivision (b). If the*  
33 *judgeship is eligible for allocation to another superior court, the*  
34 *Judicial Council shall promptly notify the applicable courts, the*  
35 *Legislature, and the Governor that the judgeship vacated in one*  
36 *court shall be allocated to another court.*

37     *(d) (1) For purposes of this section only, a judgeship shall*  
38 *become "vacant" when an incumbent judge relinquishes the office*

1 through resignation, retirement, death, removal, or confirmation  
2 to an appellate court judgeship during either of the following:

3 (A) At any time before the deadline to file a declaration of  
4 intention to become a candidate for a judicial office pursuant to  
5 Section 8023 of the Elections Code.

6 (B) After the deadline to file a declaration of intention to become  
7 a candidate for a judicial office pursuant to Section 8023 of the  
8 Elections Code if no candidate submits qualifying nomination  
9 papers by the deadline pursuant to Section 8020 of the Elections  
10 Code.

11 (2) For purposes of this section, a judgeship shall not become  
12 “vacant” when an incumbent judge relinquishes the office as a  
13 result of being defeated in an election for that office.

14 SECTION 1. Section 1252 of the Health and Safety Code is  
15 amended to read:

16 1252. (a) Except as specified in subdivision (b), “special  
17 service” means a functional division, department, or unit of a health  
18 facility that is organized, staffed, and equipped to provide a specific  
19 type or types of patient care and that has been identified by  
20 regulations of the state department and for which the state  
21 department has established special standards for quality of care.  
22 “Special service” does not include a functional division,  
23 department, or unit of a nursing facility, as defined in subdivision  
24 (k) of Section 1250, that is organized, staffed, and equipped to  
25 provide inpatient physical therapy services, occupational therapy  
26 services, or speech pathology and audiology services to residents  
27 of the facility if these services are provided solely to meet the  
28 federal Centers for Medicare and Medicaid Services certification  
29 requirements. “Special service” includes physical therapy services,  
30 occupational therapy services, or speech pathology and audiology  
31 services provided by a nursing facility, as defined in subdivision  
32 (k) of Section 1250, to outpatients.

33 (b) Notwithstanding subdivision (a), “special service” also  
34 means dialysis, peritoneal, and infusion services as may be  
35 approved by the department for nursing facilities and skilled  
36 nursing facilities that are not identified by regulations of the  
37 department, if the licensee can demonstrate to the satisfaction of  
38 the department that the special service will operate in accordance  
39 with a minimum standard for quality of care. The minimum  
40 standard for quality of care for the special service under this

1 subdivision shall be equivalent to, or greater than, that of current  
2 community standards for quality of care for that type of service.  
3 Approved special services shall be listed on the facility license.  
4 Failure to maintain the agreed upon minimum standard for quality  
5 of care shall result in approval for the special service being  
6 terminated. A licensee applying to the department for approval of  
7 special services that are not identified by regulations of the  
8 department pursuant to this subdivision shall submit all the  
9 following information for the department's consideration:

10 (1) A completed application on forms prescribed by the  
11 department, with additional documentation or data, as required by  
12 the department, that clearly identifies the scope of the special  
13 service proposed to be provided.

14 (2) The hours of operation for the special service.

15 (3) Whether the service is to be provided solely to the residents  
16 of the facility or also on an outpatient basis. If the service is to be  
17 provided on an outpatient basis, the licensee shall specify the  
18 population to be served.

19 (4) A copy of the special service policies and procedures for  
20 review and approval.

21 (5) The minimum staffing levels and qualifications for the  
22 proposed special service, sufficient to meet the needs of the  
23 residents and patients.

24 (6) Identification of the equipment and supplies necessary to  
25 meet the needs of residents and patients receiving care in the special  
26 service.

27 (7) Identification of an appropriate space within the facility to  
28 be used to provide the special service. A special service that is  
29 provided on an outpatient basis shall not be provided in a space  
30 that would require outpatients to traverse areas where resident  
31 sleeping rooms are located.

32 (8) Confirmation that the applicable building, zoning, and fire  
33 safety standards for the proposed use of the special service space  
34 are met.

35 (9) Any other relevant information requested by the department.

36 (e) This section does not limit the department's ability to  
37 evaluate compliance with the therapy requirements for nursing  
38 facilities and skilled nursing facilities established in Title 22 of  
39 the California Code of Regulations during investigations or  
40 inspections, including, but not limited to, inspections conducted

1 pursuant to Section 1422, or to limit the department's ability to  
2 enforce the therapy requirements.  
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.