

AMENDED IN ASSEMBLY APRIL 26, 2016

AMENDED IN ASSEMBLY APRIL 5, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2403

Introduced by Assembly Member Bloom
(Principal coauthor: Assembly Member Wilk)
(Principal coauthor: Senator Allen)
(Coauthor: Assembly Member Brough)

February 19, 2016

An act to amend Sections 11834.02, 11834.09, ~~11834.20~~, and ~~11834.23~~ and 11834.20 of the Health and Safety Code, relating to alcoholism and drug abuse.

LEGISLATIVE COUNSEL'S DIGEST

AB 2403, as amended, Bloom. Alcoholism or drug abuse recovery or treatment facilities.

Existing law provides for the licensure, certification, and regulation of alcoholism or drug abuse recovery or treatment facilities, as defined, administered by the State Department of Health Care Services. Existing law authorizes the department, if certain criteria are met, to issue a single license to a residential facility or a facility wherein separate buildings or portions of a residential facility are integral components of a single alcoholism or drug abuse recovery or treatment facility and all of the components of the facility are managed by the same licensee.

This bill would instead require the department, if certain criteria are met, to issue a single license to a residential facility or integral facilities and would define "integral facilities" to mean any combination of 2 or more facilities located on the same or different parcels that collectively

serve 7 or more persons, as specified, and that are under the control or management of the same entity, as specified, or which together comprise one operation or enterprise.

This bill would ~~require~~ *authorize* the department to deny an application for a new facility license if the proposed location is in proximity to an existing facility that would result in overconcentration. The bill would define “overconcentration” as 2 or more alcoholism or drug abuse recovery or treatment facilities being separated by a distance of 300 feet or less, as specified, with the exception of facilities that combine to form integral facilities. The bill would *further* authorize the ~~department, notwithstanding this provision,~~ *department* to approve a separation distance of less than 300 feet if the proximity of facilities to one another would not conflict with regulations of the city or county in which the proposed facility will be located.

The bill would authorize a city or county to request denial of the license applied for on the basis of an overconcentration of facilities. The bill would require the department or county licensing agency, at least 45 days prior to approving an application for a new facility, to notify the appropriate city or county planning agency, as specified, of the proposed location of the facility. By imposing new duties on local officials, the bill would create a state-mandated local program.

~~Existing law requires an alcoholism or drug abuse recovery or treatment facility that serves 6 or fewer persons to be considered a residential use of property, as specified, and requires the residents and operators of the facility to be considered a family for the purposes of any law or zoning ordinance that relates to the residential use of property.~~

~~This bill would provide that the above provision does not apply to integral facilities and would provide that a city, county, or city and county whose application of zoning ordinances to a licensed facility is restricted by these provisions is an interested party with standing to pursue any available administrative appeals or otherwise seek judicial review of the licensing decision of the department and enforce the above 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, 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.

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 11834.02 of the Health and Safety Code
2 is amended to read:

3 11834.02. (a) As used in this chapter, “alcoholism or drug
4 abuse recovery or treatment facility or facilities,” “facility,” or
5 “facilities” means any premises, place, or building that provides
6 24-hour residential nonmedical services to adults who are
7 recovering from problems related to alcohol, drug, or alcohol and
8 drug misuse or abuse, and who need alcohol, drug, or alcohol and
9 drug recovery treatment or detoxification services.

10 (b) As used in this chapter, “adults” may include, but is not
11 limited to, all of the following:

12 (1) Mothers over 18 years of age and their children.

13 (2) Emancipated minors, which may include, but is not limited
14 to, mothers under 18 years of age and their children.

15 (c) As used in this chapter, “emancipated minors” means
16 persons under 18 years of age who have acquired emancipation
17 status pursuant to Section 7002 of the Family Code.

18 (d) As used in this chapter, “integral facilities” means any
19 combination of two or more facilities located on the same or
20 different parcels that collectively serve seven or more persons, not
21 including the licensee or members of the licensee’s family or
22 persons employed as facility staff, and that are under the control
23 or management of the same owner, operator, management
24 company, or licensee, or any affiliate of any of them, or which
25 together comprise one operation or enterprise. Integral facilities
26 shall include, but not be limited to, the provision of housing in one
27 facility and recovery programming, treatment, meals, or any other
28 service at another facility or facilities, or by assigning staff or a
29 consultant to provide services to or in more than one facility.

30 (e) Notwithstanding subdivision (a), an alcoholism or drug abuse
31 recovery or treatment facility may serve adolescents upon the
32 issuance of a waiver granted by the department pursuant to
33 regulations adopted under subdivision (c) of Section 11834.50.

1 SEC. 2. Section 11834.09 of the Health and Safety Code is
2 amended to read:

3 11834.09. (a) Upon receipt of a completed written application,
4 fire clearance, and licensing fee from the prospective licensee, and
5 subject to the department’s review and determination that the
6 prospective licensee can comply with this chapter and regulations
7 adopted pursuant to this chapter, the department shall issue a single
8 license to the following types of alcoholism or drug abuse recovery
9 or treatment facilities:

- 10 (1) A residential facility, other than integral facilities.
- 11 (2) Integral facilities, as defined in subdivision (d) of Section
12 11834.02.

13 (b) Failure to submit a completed written application, fire
14 clearance, and payment of the required licensing fee in a timely
15 manner shall result in termination of the department’s licensure
16 review and shall require submission of a new application by the
17 prospective licensee.

18 (c) Failure of the prospective licensee to demonstrate the ability
19 to comply with this chapter or the regulations adopted pursuant to
20 this chapter shall result in departmental denial of the prospective
21 licensee’s application for licensure.

22 SEC. 3. Section 11834.20 of the Health and Safety Code is
23 amended to read:

24 11834.20. (a) The Legislature hereby declares that it is the
25 policy of this state that each county and city shall permit and
26 encourage the development of sufficient numbers and types of
27 alcoholism or drug abuse recovery or treatment facilities as are
28 commensurate with local need.

29 (b) (1) ~~It shall be presumed that local need is satisfied, and the~~
30 ~~department shall~~ *For any licensing application submitted on or*
31 *after January 1, 2017, the department may deny an application*
32 *for a new facility license, if the proposed location is in proximity*
33 *to an existing facility that would result in overconcentration.*

34 (2) As used in this section, “overconcentration” means that if a
35 new license is issued, two or more alcoholism or drug abuse
36 recovery or treatment facilities will be separated by a distance of
37 300 feet or less, as measured from the nearest property line on
38 which an existing facility is located to the nearest property line of
39 the proposed facility. The siting of facilities that combine to form

1 integral facilities within 300 feet of one another shall not result in
2 overconcentration.

3 ~~(3) Notwithstanding paragraphs (1) and (2), based~~ *Based* on
4 special local needs and conditions, the department may approve a
5 separation distance of less than 300 feet if the proximity of facilities
6 to one another would not conflict with regulations of the city or
7 county in which the proposed facility will be located.

8 (c) Any city or county may request denial of the license applied
9 for on the basis of an overconcentration of facilities.

10 (d) At least 45 days prior to approving any application for a
11 new facility, the department or county licensing agency shall notify
12 in writing the planning agency of the city, if the facility is to be
13 located in the city, or the planning agency of the county, if the
14 facility is to be located in an unincorporated area, of the proposed
15 location of the facility.

16 (e) The provisions of this article apply equally to any chartered
17 city, general law city, county, city and county, district, and any
18 other local public entity.

19 (f) For the purposes of this article, “six or fewer persons” does
20 not include the licensee or members of the licensee’s family or
21 persons employed as facility staff.

22 ~~SEC. 4. Section 11834.23 of the Health and Safety Code is~~
23 ~~amended to read:~~

24 ~~11834.23. (a) Whether or not unrelated persons are living~~
25 ~~together, an alcoholism or drug abuse recovery or treatment facility~~
26 ~~that serves six or fewer persons shall be considered a residential~~
27 ~~use of property for the purposes of this article. In addition, the~~
28 ~~residents and operators of the facility shall be considered a family~~
29 ~~for the purposes of any law or zoning ordinance that relates to the~~
30 ~~residential use of property pursuant to this article.~~

31 ~~(b) For the purpose of all local ordinances, an alcoholism or~~
32 ~~drug abuse recovery or treatment facility that serves six or fewer~~
33 ~~persons shall not be included within the definition of a boarding~~
34 ~~house, rooming house, institution or home for the care of minors,~~
35 ~~the aged, or persons with mental health disorders, foster care home,~~
36 ~~guest home, rest home, community residence, or other similar term~~
37 ~~that implies that the alcoholism or drug abuse recovery or treatment~~
38 ~~home is a business run for profit or differs in any other way from~~
39 ~~a single-family residence.~~

1 ~~(e) This section shall not be construed to forbid a city, county,~~
2 ~~or other local public entity from placing restrictions on building~~
3 ~~heights, setback, lot dimensions, or placement of signs of an~~
4 ~~alcoholism or drug abuse recovery or treatment facility that serves~~
5 ~~six or fewer persons as long as the restrictions are identical to those~~
6 ~~applied to other single-family residences.~~

7 ~~(d) This section shall not be construed to forbid the application~~
8 ~~to an alcoholism or drug abuse recovery or treatment facility of~~
9 ~~any local ordinance that deals with health and safety, building~~
10 ~~standards, environmental impact standards, or any other matter~~
11 ~~within the jurisdiction of a local public entity. However, the~~
12 ~~ordinance shall not distinguish alcoholism or drug abuse recovery~~
13 ~~or treatment facilities that serve six or fewer persons from other~~
14 ~~single-family dwellings or distinguish residents of alcoholism or~~
15 ~~drug abuse recovery or treatment facilities from persons who reside~~
16 ~~in other single-family dwellings.~~

17 ~~(e) No conditional use permit, zoning variance, or other zoning~~
18 ~~clearance shall be required of an alcoholism or drug abuse recovery~~
19 ~~or treatment facility that serves six or fewer persons that is not~~
20 ~~required of a single-family residence in the same zone.~~

21 ~~(f) Use of a single-family dwelling for purposes of an alcoholism~~
22 ~~or drug abuse recovery facility serving six or fewer persons shall~~
23 ~~not constitute a change of occupancy for purposes of Part 1.5~~
24 ~~(commencing with Section 17910) of Division 13 or local building~~
25 ~~codes. However, nothing in this section is intended to supersede~~
26 ~~Section 13143 or 13143.6, to the extent those sections are~~
27 ~~applicable to alcoholism or drug abuse recovery or treatment~~
28 ~~facilities serving six or fewer residents.~~

29 ~~(g) This section shall not apply to integral facilities, as defined~~
30 ~~in subdivision (d) of Section 11834.02.~~

31 ~~(h) A city, county, or city and county whose application of~~
32 ~~zoning ordinances to a licensed alcoholism or drug abuse recovery~~
33 ~~or treatment facility is restricted by this section is an interested~~
34 ~~party with standing to pursue any available administrative appeals~~
35 ~~or otherwise seek judicial review of the licensing decision of the~~
36 ~~department and enforce the provisions of this chapter.~~

37 ~~SEC. 5.~~

38 *SEC. 4.* If the Commission on State Mandates determines that
39 this act contains costs mandated by the state, reimbursement to
40 local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

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