


REPORT OF THE CHIEF LEGISLATIVE ANALYST

DATE: February 24, 2016

TO: Honorable Members of the Rules, Elections, Intergovernmental Relations, and
Neighborhoods Committee

FROM: Sharon M. Tso  Council File No.: 15-0002-S54
Chief Legislative Analyst Assignment No.: 15-06-0432

SUBJECT: Resolution (Koretz – O’Farrell) to SUPPORT AB 1050 (Low)

CLA RECOMMENDATION: That the City Council adopt the attached revised Resolution to include in its 2015-16 State Legislative Program SUPPORT for legislation and/or administrative action that would require all charities eligible for donations through a State employee giving program to certify compliance with all existing civil rights and nondiscrimination laws.

SUMMARY

Resolution (Koretz – O’Farrell), introduced on May 20, 2015, states that existing law authorizes the California Victim Compensation and Government Claims Board to approve plans for payroll deductions from the salaries or wages of state officers and employees for various fund drives. Charities are required to be certified that they are in compliance with the Fair Employment and Housing Act. Approximately 35,000 to 40,000 State employees participate in the program annually and provide donations averaging \$6.5 million per year to nearly 3,000 designated charities.

The Resolution also provides that existing law covers most forms of discrimination, but some charitable organizations approved for this program do not fully comply with State civil rights and nondiscrimination laws. Prior to amendment, AB 1050 (Low) required charitable organizations seeking to participate in State employee charitable giving program to certify that they comply with the State’s existing civil rights and nondiscrimination statutes.

On February 10, 2016, the State Senate removed the original contents of AB 1050 and replaced those provisions with new language that is unrelated to civil rights and nondiscrimination laws. As a result, the modified bill is inconsistent with the intent of Resolution (Koretz – O’Farrell). Therefore, we have prepared a revised Resolution which recommends that the City support legislation and/or administrative action that would require all charities eligible for donations through a State employee giving program to certify compliance with all existing civil rights and nondiscrimination laws.

BACKGROUND

Under current law, State employees are allowed to authorize a payroll deduction for certain approved charities under the California State Employees Giving at Work Program, which is overseen by the Victim's Compensation and Government Claims Board (Board). Charities who participate are required to certify that they comply with the California Fair Employment and Housing Act (FEHA), which prohibits housing and workplace discrimination on the basis of the following characteristics: race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status.

AB1050 (Low), as introduced on February 26, 2015, would require a participating charity to certify compliance with the Unruh Civil Rights Act which prohibits discrimination in services provided by business establishments. It would also require participating charities to provide the Board with the charity's written nondiscrimination policy. If a participating charity does not have a written nondiscrimination policy, such a charity may submit a statement which indicates that it complies with the Unruh Civil Rights Act.

There are certain approved charities that do not fully abide by all State nondiscrimination and civil rights laws, such as the Boy Scouts of America. Although the Boy Scouts of America has since reversed its policy so that no youth may be denied membership on the basis of sexual orientation, the organization continues to maintain its prohibition on gay adult leaders. The initial form of AB1050 would ensure that all charities participating in the program fully comply with State civil rights and nondiscrimination laws and provide additional transparency to the program's donor approval process. The Personnel Department advises that the bill, if enacted, will not affect City operations.

The subject matter of AB 1050, as initially introduced on February 26, 2015, is consistent with City policies and programs that support the civil rights of all residents. The City should continue to seek similar legislation.

DEPARTMENTS NOTIFIED

Personnel Department
City Administrative Officer

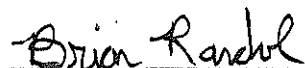
BILL STATUS

2015

February 26 Read first time. To print.
March 19 Referred to Committee on Public Employees, Retirement, and Social Security.
April 6 Re-referred to Committee on Accountability and Administrative Review pursuant to Assembly Rule 96.
April 21 From committee chair, with author's amendments: Amend, and re-refer to Accountability and Administrative Review. Read second time and amended.
April 29 From committee: Do pass and re-refer to Committee on Appropriations (Ayes 8, Noes 1).
May 13 From committee: Do pass. (Ayes 13, Noes 4)
May 26 In Senate. Read first time. To Committee on Rules for assignment.
May 26 Read third time. Passed. Ordered to the Senate. (Ayes 62, Noes 7).
June 4 Referred to Committee on Judiciary.
June 24 From committee: Do pass and re-refer to Committee on Appropriations (Ayes 5, Noes 1.)
July 7 Read second time and amended. Ordered to third reading.
Sept. 11 Ordered to inactive file at the request of Senator Mitchell.

2016

Feb. 10 From inactive file. Ordered to second reading. Read second time and amended. Ordered returned to second reading.



Brian Randol
Analyst

Attachments: 1. Revised Resolution
2. Text of AB 1050, as introduced
3. Text of modified AB1050

RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must first have been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, existing law authorizes the California Victim Compensation and Government Claims Board to approve plans for payroll deductions from the salaries or wages of state officers and employees for various fund drives; and

WHEREAS, existing law also requires a charitable organization approved by the Board to certify under penalty of perjury that it is in compliance with the Fair Employment and Housing Act; and

WHEREAS, approximately 35,000 to 40,000 State employees participate in the program annually and provide donations averaging \$6.5 million per year to nearly 3,000 designated charities; and

WHEREAS, while existing law covers most forms of discrimination, some charitable organizations approved for this program do not fully comply with State civil rights and nondiscrimination laws; and

WHEREAS, AB 1050 (Low), as introduced on February 26, 2015, would require charitable organizations seeking to participate in the employees' charitable giving program to certify compliance with the state's existing civil rights and nondiscrimination statutes; and

WHEREAS, on February 10, 2016, the State Senate removed the original contents of AB 1050 and replaced those provisions with new language that is unrelated to civil rights and nondiscrimination laws, which is substantially different than the original intent of AB 1050; and

WHEREAS, AB 1050 as initially introduced on February 26, 2015, is consistent with City policies and programs which support civil rights for all people; therefore, the Legislature should consider a bill and/or administrative action consistent with the provisions of the original version of AB 1050;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2015-16 State Legislative Program SUPPORT for legislation and/or administrative action that would require all charities eligible for donations through a State employee giving program to certify compliance with all existing civil rights and nondiscrimination laws.

ASSEMBLY BILL

No. 1050

Introduced by Assembly Member Low

February 26, 2015

An act to amend Section 13923 of the Government Code, relating to state employees.

LEGISLATIVE COUNSEL'S DIGEST

AB 1050, as introduced, Low. State employees: charitable deductions.

Existing law authorizes the California Victim Compensation and Government Claims Board to approve plans for payroll deduction from the salaries or wages of state officers and employees for charitable contributions to the agency handling the principal combined fund drive in any area. Existing law also authorizes the board to approve requests of charitable organizations to receive designated deductions if the charitable organization qualifies as an exempt organization under both state and federal income tax laws. Existing law requires a charitable organization approved by the board to certify under penalty of perjury that it is in compliance with the Fair Employment and Housing Act.

This bill would require the charitable organization to annually provide the board with a written nondiscrimination policy.

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

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

1 SECTION 1. Section 13923 of the Government Code is
2 amended to read:

1 13923. (a) The board may approve plans for payroll deduction
2 from the salaries or wages of state officers and employees under
3 subdivision (f) of Section 1151 for charitable contributions to the
4 agency handling the principal combined fund drive in any area.
5 The board shall establish necessary rules and regulations, including
6 the following:

7 (a)

8 (1) Standards for establishing what constitutes the principal
9 combined fund drive in an area.

10 (b)

11 (2) A requirement that the agency to receive these contributions
12 shall pay, for deposit in the General Fund, the additional cost to
13 the state of making these deductions and remitting the proceeds,
14 as determined by the Controller.

15 (c)

16 (3) A requirement that the agency to receive these contributions
17 shall pay, for deposit in the General Fund, the board's cost to
18 administer the annual charitable campaign fund drive. This amount
19 shall be determined by the board and may be appropriated in
20 support of the board as reimbursements to Item 8700-001-0001 of
21 the annual Budget Act.

22 (d)

23 (4) Provisions for standard amounts of deductions from which
24 each state officer or employee may select the contribution that he
25 or she desires to make, if any.

26 (e)

27 (5) A prohibition upon state officers or employees authorizing
28 more than one payroll deduction for charitable purposes to be in
29 effect at the same time.

30 (f)

31 (6) A provision authorizing the Controller to combine in his or
32 her records deductions for employee association dues, if authorized,
33 and charitable deductions, if authorized.

34 ~~The~~

35 (b) *The* board, in addition, may approve requests of any
36 charitable organization qualified as an exempt organization under
37 Section 23701d of the Revenue and Taxation Code, and ~~paragraph~~
38 ~~(3) of subsection (c) of Section 501(c)(3), of the Internal~~
39 ~~Revenue Code of 1954, which~~ *that* is not an affiliated member

1 beneficiary of the principal combined fund drive to receive
2 designated deductions from the principal fund drive.

3 ~~The~~

4 (c) (1) *The principal combined fund drive agency, any charitable*
5 *organization*~~which~~ *that is an affiliated member beneficiary of the*
6 *principal combined fund drive, and any charitable organization*
7 *approved by the board to receive designated deductions on the*
8 *payroll authorization form of the principal fund drive, shall certify*
9 *under penalty of perjury to the board that it is in compliance with*
10 *the Fair Employment and Housing Act, Part 2.8 (commencing*
11 *with Section 12900), as a condition of receiving these designated*
12 *deductions.*

13 (2) *The charitable organization shall annually provide the board*
14 *with the written nondiscrimination policy of the organization.*

15 ~~The~~

16 (d) *The principal combined fund drive shall obtain from the*
17 *board the list of approved nonaffiliated beneficiaries, eligible for*
18 *designated deductions in its approved drive area, and shall provide*
19 *this information to each employee at the time of the principal fund*
20 *drive. The principal combined drive agency shall provide a*
21 *designation form for the employee to indicate those amounts to*
22 *be contributed to affiliated and nonaffiliated beneficiaries. The*
23 *designation form shall consist of a copy for each of the following:*
24 *(1) the employee, (2) the employee's designated beneficiary*
25 *agency, and (3) the principal combined fund drive agency. The*
26 *principal combined fund drive agency shall pay the amount*
27 *collected for the employee designated beneficiary agency less the*
28 *amount necessary to reimburse the principal combined fund drive*
29 *agency for fundraising and administrative expenses. The fee*
30 *charged for fundraising and administrative cost reimbursement*
31 *shall be determined by the board, published in campaign literature*
32 *and made available to the employee during the solicitation process.*

33 ~~Nothing~~

34 (e) *Nothing contained in this section shall preclude a principal*
35 *fund drive agency from giving a percentage of the undesignated*
36 *funds to charities*~~which~~ *that are not members of the agency*
37 *handling the principal drive, or honoring an employee's designated*
38 *deduction to any charitable organization.*

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AMENDED IN SENATE FEBRUARY 10, 2016

AMENDED IN SENATE JULY 7, 2015

AMENDED IN ASSEMBLY APRIL 21, 2015

CALIFORNIA LEGISLATURE—2015—16 REGULAR SESSION

ASSEMBLY BILL

No. 1050

Introduced by Assembly Member Low
(Coauthor: Senator Leno)

February 26, 2015

An act to amend Section ~~13923~~ of the Government Code, *143.1* of the Labor Code, relating to ~~state employees: employment safety~~.

LEGISLATIVE COUNSEL'S DIGEST

AB 1050, as amended, Low. ~~State employees: charitable deductions: Occupational safety and health: permanent variances.~~

Existing law establishes the Occupational Safety and Health Standards Board in the Department of Industrial Relations and authorizes the board to adopt, amend, or repeal employment safety and health standards and orders. Existing law authorizes the board, upon the application of an employer, to grant a permanent variance from an occupational standard or order after specified notice and hearing requirements regarding employees or employee representatives are met.

This bill would, when the request for a permanent variance pertains to a conveyance covered by the elevator safety orders, require the applicant to provide the required notice regarding the hearing to the local union representing elevator workers and to those workers who will be performing the tasks pursuant to the proposed variance, or their authorized representative. The bill would grant party status at the

hearing to those workers or their authorized representative upon their request to the board.

~~Existing law authorizes the California Victim Compensation and Government Claims Board to approve plans for payroll deduction from the salaries or wages of state officers and employees for charitable contributions to the agency handling the principal combined fund drive in any area. Existing law also authorizes the board to approve requests of charitable organizations to receive designated deductions if the charitable organization qualifies as an exempt organization under both state and federal income tax laws. Existing law requires a charitable organization approved by the board to certify under penalty of perjury that it is in compliance with the Fair Employment and Housing Act.~~

~~This bill would additionally require the charitable organization to certify under penalty of perjury that it is in compliance with the Unruh Civil Rights Act. The bill would require the charitable organization to provide the board, in electronic format, a written nondiscrimination policy or statement that it does not have one, but otherwise complies with the Unruh Civil Rights Act. By expanding the definition of a 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. Section 143.1 of the Labor Code is amended to
- 2 read:
- 3 143.1. (a) The board shall conduct hearings on such requests
- 4 for a permanent variance after employees or employee
- 5 representatives are properly notified and given an opportunity to
- 6 appear. ~~At~~
- 7 (b) If a request for a permanent variance pertains to a
- 8 conveyance covered by the elevator safety orders, the applicant
- 9 shall notify the union representing elevator workers in the region
- 10 where the building is being constructed or modified and to those
- 11 workers who will be performing the tasks pursuant to the proposed

1 *variance, or their authorized representative, pursuant to the*
2 *requirements of subdivision (a). These workers, or their authorized*
3 *representative, shall be granted party status upon request to the*
4 *board.*

5 *(c) All board decisions on permanent variance requests shall be*
6 *final except for any rehearing or judicial review provided for by*
7 *law.*

8 ~~SECTION 1. Section 13923 of the Government Code is~~
9 ~~amended to read:~~

10 ~~13923. (a) The board may approve plans for payroll deduction~~
11 ~~from the salaries or wages of state officers and employees under~~
12 ~~subdivision (f) of Section 1151 for charitable contributions to the~~
13 ~~agency handling the principal combined fund drive in any area.~~
14 ~~The board shall establish necessary rules and regulations, including~~
15 ~~the following:~~

16 ~~(1) Standards for establishing what constitutes the principal~~
17 ~~combined fund drive in an area.~~

18 ~~(2) A requirement that the agency to receive these contributions~~
19 ~~shall pay, for deposit in the General Fund, the additional cost to~~
20 ~~the state of making these deductions and remitting the proceeds,~~
21 ~~as determined by the Controller.~~

22 ~~(3) A requirement that the agency to receive these contributions~~
23 ~~shall pay, for deposit in the General Fund, the board's cost to~~
24 ~~administer the annual charitable campaign fund drive. This amount~~
25 ~~shall be determined by the board and may be appropriated in~~
26 ~~support of the board as reimbursements to Item 8700-001-0001 of~~
27 ~~the annual Budget Act.~~

28 ~~(4) Provisions for standard amounts of deductions from which~~
29 ~~each state officer or employee may select the contribution that he~~
30 ~~or she desires to make, if any.~~

31 ~~(5) A prohibition upon state officers or employees authorizing~~
32 ~~more than one payroll deduction for charitable purposes to be in~~
33 ~~effect at the same time.~~

34 ~~(6) A provision authorizing the Controller to combine in his or~~
35 ~~her records deductions for employee association dues, if authorized,~~
36 ~~and charitable deductions, if authorized.~~

37 ~~(b) The board, in addition, may approve requests of any~~
38 ~~charitable organization qualified as an exempt organization under~~
39 ~~Section 23701d of the Revenue and Taxation Code, and Section~~
40 ~~501(c)(3), of the Internal Revenue Code that is not an affiliated~~

1 member-beneficiary of the principal combined fund drive to receive
2 designated deductions from the principal fund drive.

3 ~~(e) (1) The principal combined fund drive agency, any~~
4 ~~charitable organization that is an affiliated member-beneficiary of~~
5 ~~the principal combined fund drive, and any charitable organization~~
6 ~~approved by the board to receive designated deductions on the~~
7 ~~payroll authorization form of the principal fund drive, shall certify~~
8 ~~under penalty of perjury to the board that it is in compliance with~~
9 ~~both Section 51 of the Civil Code and the Fair Employment and~~
10 ~~Housing Act (Part 2.8 (commencing with Section 12900)) as a~~
11 ~~condition of receiving these designated deductions.~~

12 ~~(2) As part of the certification process, the charitable~~
13 ~~organization shall provide to the board, in an electronic format,~~
14 ~~either the written nondiscrimination policy of the organization or~~
15 ~~a written statement to indicate that the organization does not have~~
16 ~~a written nondiscrimination policy, but otherwise complies with~~
17 ~~Section 51 of the Civil Code.~~

18 ~~(d) The principal combined fund drive shall obtain from the~~
19 ~~board the list of approved nonaffiliated beneficiaries, eligible for~~
20 ~~designated deductions in its approved drive area, and shall provide~~
21 ~~this information to each employee at the time of the principal fund~~
22 ~~drive. The principal combined drive agency shall provide a~~
23 ~~designation form for the employee to indicate those amounts to~~
24 ~~be contributed to affiliated and nonaffiliated beneficiaries. The~~
25 ~~designation form shall consist of a copy for each of the following:~~
26 ~~(1) the employee, (2) the employee's designated beneficiary~~
27 ~~agency, and (3) the principal combined fund drive agency. The~~
28 ~~principal combined fund drive agency shall pay the amount~~
29 ~~collected for the employee designated beneficiary agency less the~~
30 ~~amount necessary to reimburse the principal combined fund drive~~
31 ~~agency for fundraising and administrative expenses. The fee~~
32 ~~charged for fundraising and administrative cost reimbursement~~
33 ~~shall be determined by the board, published in campaign literature~~
34 ~~and made available to the employee during the solicitation process.~~

35 ~~(e) Nothing contained in this section shall preclude a principal~~
36 ~~fund drive agency from giving a percentage of the undesignated~~
37 ~~funds to charities that are not members of the agency handling the~~
38 ~~principal drive, or honoring an employee's designated deduction~~
39 ~~to any charitable organization.~~

1 ~~SEC. 2. No reimbursement is required by this act pursuant to~~
2 ~~Section 6 of Article XIII B of the California Constitution because~~
3 ~~the only costs that may be incurred by a local agency or school~~
4 ~~district will be incurred because this act creates a new crime or~~
5 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
6 ~~for a crime or infraction, within the meaning of Section 17556 of~~
7 ~~the Government Code, or changes the definition of a crime within~~
8 ~~the meaning of Section 6 of Article XIII B of the California~~
9 ~~Constitution.~~

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