


**REPORT OF THE
CHIEF LEGISLATIVE ANALYST**

DATE: August 6, 2019

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

FROM: Sharon M. Tso 
Chief Legislative Analyst

Council File No: 19-0002-S146
Assignment No: 19-08-0777

SUBJECT: Resolution to Support AB 1404 (Santiago)

CLA RECOMMENDATION: Adopt Resolution (Wesson – Koretz – Ryu) to include in the City’s 2019-2020 State Legislative Program, SUPPORT for AB 1404 (Santiago) which would require non-profit organizations that operate medical facilities or provide medical services to make annual disclosures to the Secretary of State regarding deferred compensation allocated by the non-profit.

SUMMARY

Resolution (Wesson – Koretz – Ryu), introduced July 30, 2019, advises that compensation for the highest paid non-profit health care executives rose by 33 percent in 2017 despite rising health care costs. Existing federal disclosure regulations do not require the disclosure of deferred compensation provided to for-profit partner organizations. The lack of deferred compensation disclosure requirements has resulted in concerns that tax-exempt assets are being used to supplement executive salaries through deferred compensation.

The Resolution further advises that currently pending in the California State Senate is AB 1404 (Santiago) which would require non-profit organizations that operate medical facilities or provide medical services to make annual disclosures to the Secretary of State regarding deferred compensation allocated by the non-profit. The bill would increase transparency by requiring disclosure of the total amount of deferred compensation allocated, the number of individuals receiving deferred compensation, whether taxes were paid on the deferred compensation, and the legal document governing the provision of deferred compensation. Due to the importance of health care spending, the State should prevent the practice of using tax-exempt assets to fund deferred compensation and ensure the public is adequately informed regarding any misallocated assets of non-profit health care providers.

The Resolution recommends that the City support AB 1404.

BACKGROUND

Existing federal law requires a tax-exempt non-profit corporation to report compensation, including deferred compensation, paid to its officers, directors, and key employees. There are no requirements that require a non-profit corporation to disclose similar information for deferred compensation provided to employees of for-profit corporations. This could potentially allow for non-profit assets to be allocated to funding compensation for employees of for-profit corporations.

Federal regulations related to the disclosure of compensation are in place to ensure proper use of tax-exempt assets. The absence of similar requirements for compensation provided to for-profit organizations limits the ability of the public to determine if tax-exempt assets are being properly utilized to benefit the communities they serve.

AB 1404 would address the lack of disclosure regulations by requiring non-profits that operate a medical facility or provide medical services to disclose to the Secretary of State: the total amount of deferred compensation allocated, the number of individuals receiving deferred compensation earning over \$250,000, whether taxes were paid on the deferred compensation, and the legal document governing the provision of deferred compensation. The bill also mandates that the non-profit certify that the information is true and correct, and disclosed to the Secretary of State annually to allow for inspection by the public. The bill was also recently amended to remove the disclosure of the name and title of the deferred compensation recipient to disclosure of the number of individuals who receive deferred compensation. The number of individuals would be arranged by pay scales of \$250,000.

The author of the bill asserts that Kaiser Permanente pays for retirement benefits for executives of the for-profit Kaiser Permanente Medical Group and has \$7.7 billion in liabilities. The lack of disclosure requirements has resulted in concern that this practice could endanger funds meant for the provision of health services. The bill would not make the practice illegal, but would increase transparency regarding provision of these benefits. The bill would equally apply to all non-profits that provide health care services, and although there is concern that the problem may be systemic, the arrangement is unusual in the healthcare industry, and may only apply to Kaiser Permanente.


Support for AB 1404 is consistent with past City efforts to increase transparency and ensure public funds are used for their intended purposes

DEPARTMENTS NOTIFIED

None

BILL STATUS

02/22/19	Introduced
03/14/19	Referred to Committee on Health.
04/24/19	Approved by the Committee on Health and referred to Committee on Appropriations.
05/01/19	Approved by the Committee on Appropriations.
05/09/19	Read third time, passed, and ordered to Senate.
05/22/19	Referred to Committee on Health.
06/18/19	Withdrawn from Committee.
06/27/19	Amended, re-referred to Committee on Judiciary.
07/10/19	Approved by the Committee on Judiciary and referred to Committee on Appropriations.
07/11/19	Read second time, amended, and re-referred to Committee on Appropriations.


Andy Galan
Analyst

Attachments: 1. Resolution (Wesson – Koretz – Ryu)

RESOLUTION RULES, ELECTIONS, INTERGOVERNMENTAL RELATIONS

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 have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, despite the rising costs of health care services and their inaccessibility to those who need them, compensation for the highest paid non-profit health care executives rose by 33 percent in 2017; and

WHEREAS, existing federal disclosure requirements provide for disclosure of information to the IRS to ensure that assets of a non-profit are being used to justify their tax-exempt purpose, but do not require the disclosure of any deferred compensation provided to for-profit partners; and

WHEREAS, this has resulted in concerns that the tax-exempt assets of non-profit health care providers are being mobilized to fund deferred compensation benefits at for-profit corporations which they are partnered with to supplement the already substantial rate of executive pay; and

WHEREAS, as non-profits receive public funding and tax incentives, the public should be assured that tax-exempt assets are not being used to fund exorbitant executive salaries and will not affect the ability of a non-profit provider to provide health care services; and


WHEREAS, AB 1404 (Santiago), currently pending in the California State Senate, would require non-profit organizations that operate medical facilities or provide medical services to make annual disclosures to the Secretary of State regarding deferred compensation allocated by the organization; and

WHEREAS, the bill would increase transparency by requiring non-profit health care providers to disclose to the public the total amount of deferred compensation allocated, the number of individuals receiving deferred compensation, whether taxes were paid on the deferred compensation, and the legal document governing the provision of deferred compensation; and

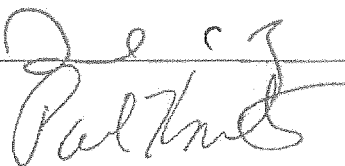
WHEREAS, due to the grave and pressing significance of health care spending, it is incumbent upon the State to prevent this practice and ensure that the public is adequately informed regarding any misallocated assets of non-profit health care providers;

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 2019-2020 State Legislative Program SUPPORT for AB 1404 (Santiago) which would require non-profit organizations that operate medical facilities or provide medical services to make annual disclosures to the Secretary of State regarding deferred compensation allocated by the organization.

PRESENTED BY:


HERB J. WESSON, JR.
Councilmember, 10th District

SECONDED BY:



JUL 30 2019

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