COUNTY OF SANTA BARBARA
LEGISLATIVE ANALYSIS FORM

This form is required for the Legislative Program Committee to consider taking an advocacy position on an issue or legislative item.

<table>
<thead>
<tr>
<th>BILL NUMBER:</th>
<th>SB-876</th>
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<tbody>
<tr>
<td>INTRO/AMEND DATE:</td>
<td>1/14/2016</td>
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<tr>
<td>BILL STATUS:</td>
<td>Introduced</td>
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<tr>
<td>AUTHOR:</td>
<td>Liu</td>
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<td>AUTHOR’S POLITICAL PARTY:</td>
<td>?</td>
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1) BILL SUBJECT: Homelessness

2) FROM DEPARTMENT: Planning & Development

3) IS THIS ITEM SPECIFICALLY REFERENCED IN THE LEGISLATIVE PLATFORM? Yes?

4) WHICH POLICY-RELATED MATTER IS OF CONCERN WITH THIS BILL? Camping by homeless persons on County property

5) HOW WOULD THIS BILL IMPACT THE COUNTY? (Current practices, responsibility, authority, pros/cons, affected programs and/or services, etc.)
This bill would allow camping (i.e. Sleeping or resting, and protecting oneself from the elements while sleeping or resting in a nonobstructive manner) on any public space (i.e. “Public space” means any property that is owned by a government entity or any property upon which there is an easement for public use and that is held open to the public, including, but not limited to, plazas, courtyards, parking lots, sidewalks, public transportation facilities and services, public buildings, shopping centers, and parks.) This would allow any County Park public space to become a homeless encampment. The ramifications for potential damage to and cleanup of such County public spaces are significant, in addition to the costs of law enforcement to address any illegal activities, not including trespass which is allowed by the bill, that might occur there.

6) IMPACT ON COUNTY PROGRAM: ☒ Major ☐ Minor ☐ None
   SANTA BARBARA COUNTY IMPACT: ★ Major ☐ Minor ☐ None
   STATEWIDE IMPACT: ★ Major ☐ Minor ☐ None

   Explanation of Impacts:
   Significant impacts to County owned public spaces as a result of unregulated homeless camping, resulting in an increase in maintenance, clean-up, and repair costs, particularly to facilities managed by Parks Division and General Services. The impacts will be local and state wide.

7) WOULD THIS BILL IMPACT:
   a. Efficient service delivery and operations? ★ YES ★ NO
   b. Fiscal stability? ★ YES ★ NO
   c. Inter-agency cooperation? ★ YES ★ NO

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d. Local control?  YES  NO
e. Protection of safety net services?  YES  NO
f. Community sustainability/economic stability?  YES  NO

Additional Comments:
Although the intent of this bill is to decriminalize homelessness, which is a good thing, the County needs to consider the impacts that this will cause to the public spaces that we own as a result of unregulated camping by homeless people. The impacts of such activities will no doubt result in an increase in County costs to clean up and maintain spaces that will be used by the homeless for camping.

8) FISCAL IMPACT ON THE COUNTY:

☐ Revenue Increase  ☐ Revenue Decrease  ☒ Unfunded Mandate
☒ Cost Increase  ☐ Cost Decrease  ☐ Undetermined
☐ None

Additional Comments:

9) OTHER AGENCIES THAT SHOULD REVIEW THIS BILL:

Please list other agencies below:
Sheriff, Community Services Department, Public Health, General Services

10) CSAC POSITION ON BILL:

☐ Support  ☐ Oppose  ☐ Support if Amended
☐ Oppose unless Amended  ☐ Watch  ☐ No position taken

11) OTHER LOCAL OR STATEWIDE ORGANIZATIONS THAT HAVE TAKEN A POSITION ON THIS BILL:
(Indicate support or opposition for each)
Carpinteria opposed

12) PROPOSED AMENDMENTS: (Attach separate sheet)

13) RECOMMENDATION:

☐ Active Support*  ☐ Passive Support  ☐ Support if Amended*
☐ Active Opposition*  ☐ Passive Opposition  ☒ Oppose unless Amended*
☐ Watch  ☐ Concerns (Why? Explain in #6)  ☐ No Position (Why?)
☐ No Change since Last Position
* Indicates that the department believes that the Board of Supervisors should take a formal position on this bill

Additional Comments:

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14) LEGISLATIVE ANALYSIS FORM PREPARED BY: Glenn Russell

Telephone extension:

E-mail address:
ANEMED IN SENATE FEBRUARY 22, 2016

SENATE BILL No. 876

Introduced by Senator Liu

January 14, 2016

An act to add Part 2.2 (commencing with Section 53.8) to Division 1 of the Civil Code, and to amend Section 11135 of, and to add Section 11139.2 to, the Government Code, relating to homelessness.

LEGISLATIVE COUNSEL’S DIGEST

SB 876, as amended, Liu. Homelessness.
Existing law provides that no person shall, on the basis of race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, genetic information, or disability, be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to discrimination under, any program or activity that is conducted, operated, or administered by the state or by any state agency, is funded directly by the state, or receives any financial assistance from the state.

This bill would expand those provisions to also include exclusion or discrimination based upon homeless status. The bill would prohibit cities, counties, cities and counties, and municipal agencies that receive state funds from enacting or enforcing a law that bans resting in a public space, as defined. The bill would afford persons experiencing homelessness the right to use public spaces without discrimination based on their housing status and describe basic human and civil rights that may be exercised without being subject to criminal or civil sanctions, including the right to use and to move freely in public spaces, the right to rest in public spaces and to protect oneself from the elements, the right to eat in any public space in which having food is not prohibited, and the right to perform religious observances in public spaces, as
specified. Because the bill would require local agencies to perform additional duties, it would impose a state-mandated local program. The bill would state the intent of the Legislature that these provisions be interpreted broadly so as to prohibit policies or practices that are discriminatory in either their purpose or effect.

The bill would authorize a person whose rights have been violated pursuant to these provisions to enforce those rights in a civil action in which the court may award the prevailing party injunctive and declaratory relief, restitution, damages, statutory damages of $1,000 per violation, and fees and costs.

The bill would also require all applicants for the United States Department of Housing and Urban Development’s Continuum of Care Homeless Assistance Program to annually provide to the Department of Housing and Community Development’s Division of Housing Policy Development a copy of its application for funding from the United States Department of Housing and Urban Development that includes the organization’s response to the application question regarding steps that its community is taking to reduce criminalization of homelessness. Because the bill would require local agencies to perform additional duties, it 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, 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.


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

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

(a) According to the United States Department of Housing and Urban Development’s report to Congress, 115,738 people were estimated to be homeless in California in 2014, a rate that is unprecedented following a deep and prolonged economic recession, a severe shortage of safe and affordable housing, a failed veteran
and civilian mental health system, and a diminished social safety
net.
(b) According to the United States Department of Education,
284,086 schoolchildren were known to have experienced
homelessness in the 2013–14 school year.
(c) Homelessness is an independent risk factor for a number of
illnesses, making people more susceptible to increased health
problems due to high stress, sleep deprivation, unsanitary
surroundings, lack of access to hygiene facilities, and a myriad of
other situational stressors experienced by people without stable
housing. Subsequently, people who are chronically homeless are
more medically frail and three to four times more likely to die
prematurely than their housed counterparts.
(d) Throughout California, local governments have enacted
ordinances that make it illegal to rest or receive nourishment in
public spaces.
(e) Ending homelessness in California will require significant
state and federal resources and there is ample evidence that policies
that invest in ending homelessness, rather than criminalizing and
marginalizing people who are experiencing homelessness,
adequately balance the needs of all parties: community residents,
government agencies, businesses, and men and women who are
experiencing homelessness.
(f) Passing this act will not reduce homelessness, but neither
will local ordinances that criminalize homelessness. Instead,
ordinances that criminalize homelessness result in increased
incarceration rates and financial indebtedness of people who simply
have no means of support and prolong homelessness by making
it more difficult for people to secure housing, employment, and
medical care. Criminalization policies further marginalize men
and women who are experiencing homelessness, fuel inflammatory
attitudes, and may even unduly restrict constitutionally protected
liberties.
(g) That is why, on September 18, 2015, the United States
Department of Housing and Urban Development included in the
annual Notice of Funding Availability for the Continuum of Care
funding competition, provisions that would award additional points
to any application that could include steps the community is taking
to reduce criminalization of homelessness.
(h) It is also why, on August 6, 2015, the United States Department of Justice submitted a rare statement of interest in a United States District Court in opposition to the criminalization of people who are homeless, calling it cruel and unusual punishment to punish someone for a crime with the potential for imprisonment and a violation of constitutional rights.

(i) While these ordinances apply to all residents, they disproportionately impact people without homes, who have no private place to rest or seek nourishment, and are often selectively applied by law enforcement to people based upon their appearance or an assumption of homelessness.

(j) In practice, these ordinances deprive persons experiencing homelessness and those who may be perceived as homeless of a safe and legal place to rest and seek nourishment, which adversely impacts their health and well-being.

(k) Sleep deprivation impairs cognitive processes and puts one at risk for obesity, heart disease, heart attack, heart failure, irregular heartbeat, high blood pressure, stroke, diabetes, and depression. People who are homeless suffer from sleep deprivation and, absent a place to rest, they suffer it more frequently.

(l) Because current practices have denied the right to adequate legal representation to people cited or arrested while resting or sharing food, homeless persons are often denied relief or damages through the courts.

(m) Both the federal government, through its Interagency Council on Homelessness, and the United Nations have recognized that discrimination and criminalization violate a homeless person’s human rights and have called upon state and local governments to cease enactment and enforcement of those laws.

(n) Homelessness and the increasing criminalization of homelessness and discrimination against those experiencing homelessness are widespread throughout California and are matters of statewide concern.

(o) Section 1 of Article I of the California Constitution provides that “[a]ll people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy,” without qualification as to whether or not a person is, or appears to be, homeless.
(p) Subdivision (a) of Section 7 of Article I of the California Constitution provides that “[a] person may not be deprived of life, liberty, or property without due process of law or denied equal protection of the laws ....”

(q) Concordant with this fundamental belief, a person should not be subject to discrimination based on his or her income, housing status, or ability or desire to appear housed. Therefore, it is the intent of the Legislature in enacting this legislation to protect the rights of all Californians, regardless of their housing status, and ameliorate the adverse effects caused by the criminalization of homelessness on our communities and our citizens.

(r) Decriminalization of rest allows municipal governments to redirect resources from local enforcement activities to activities that address the root causes of homelessness and poverty.

SEC. 2. Part 2.2 (commencing with Section 53.8) is added to Division 1 of the Civil Code, to read:

PART 2.2. HOMELESS PERSONS

53.8. For purposes of this part, the following definitions shall apply:

(a) “Homeless persons,” “homeless people,” or “persons experiencing homelessness” means those individuals or members of families who lack a fixed, regular, and adequate nighttime residence, including people defined as homeless using the criteria established in the Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act of 2009.

(b) “Motor vehicle” means a motor vehicle as defined in Section 415 of the Vehicle Code.

(c) “Public space” means any property that is owned by a government entity or any property upon which there is an easement for public use and that is held open to the public, including, but not limited to, plazas, courtyards, parking lots, sidewalks, public transportation facilities and services, public buildings, shopping centers, and parks.

(d) “Recreational vehicle” means a recreational vehicle as defined in Section 18010 of the Health and Safety Code.
(c) "Rest" means the state of not moving, holding certain postures that include, but are not limited to, sitting, standing, leaning, kneeling, squatting, sleeping, or lying.

53.81. (a) **Persons**—**It is the intent of the Legislature that this section be interpreted broadly so as to prohibit policies or practices that are discriminatory in either their purpose or effect.**

(b) **Persons** experiencing homelessness shall be permitted to use public space in the ways described in this section at any time that the public space is open to the public without discrimination based upon their housing status, and without being subject to criminal, civil, or administrative penalties. Permitted use of the public space include, but are not limited to, all of the following:

1. Free movement without restraint.
2. Sleeping or resting, and protecting oneself from the elements while sleeping or resting in a nonobstructive manner.
3. Eating, sharing, accepting, or giving food in a space in which having food is not otherwise generally prohibited.
4. Praying, meditating, worshiping, or practicing religion.

(b)

(c) Nothing in this section shall prevent law enforcement from enforcing laws to protect the right of people to use the sidewalk; **sidewalk** pursuant to the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.).

(e)

(d) Nothing in this section shall prevent law enforcement from enforcing the Penal Code, except subdivision (e) of Section 647 of the Penal Code, so far as it prohibits rest.

53.82. (a) Any person whose rights have been violated pursuant to this part may enforce those rights in a civil action.

(b) The court may award appropriate injunctive and declaratory relief, restitution for loss of property or personal effects and belongings, actual damages, compensatory damages, exemplary damages, statutory damages of one thousand dollars ($1,000) per violation, and reasonable attorney's fees and costs to a prevailing party.

SEC. 3. Section 11135 of the Government Code is amended to read:

11135.—(a) No person in the State of California shall, on the basis of race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, genetic information, disability,
or homeless status, be unlawfully denied full and equal access to
the benefits of, or be unlawfully subjected to discrimination under,
any program or activity that is conducted, operated, or administered
by the state or by any state agency, is funded directly by the state;
or receives any financial assistance from the state. Notwithstanding
Section 11000, this section applies to the California State
University:
(b) With respect to discrimination on the basis of disability,
programs and activities subject to subdivision (a) shall meet the
protections and prohibitions contained in Section 202 of the federal
Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132);
and the federal rules and regulations adopted in implementation
thereof, except that if the laws of this state prescribe stronger
protections and prohibitions, the programs and activities subject
to subdivision (a) shall be subject to the stronger protections and
prohibitions:
(c) (1) As used in this section, “disability” means any mental
or physical disability, as defined in Section 12926:
(2) The Legislature finds and declares that the amendments
made to this act are declarative of existing law. The Legislature
further finds and declares that in enacting Senate Bill 105 of the
2001–02 Regular Session (Chapter 1102 of the Statutes of 2002),
it was the intention of the Legislature to apply subdivision (d) to
the California State University in the same manner that
subdivisions (a), (b), and (c) already applied to the California State
University, notwithstanding Section 11000. In clarifying that the
California State University is subject to paragraph (2) of
subdivision (d), it is not the intention of the Legislature to increase
the cost of developing or procuring electronic and information
technology. The California State University shall, however, in
determining the cost of developing or procuring electronic or
information technology, consider whether technology that meets
the standards applicable pursuant to paragraph (2) of subdivision
(d) will reduce the long-term cost incurred by the California State
University in providing access or accommodations to future users
of this technology who are persons with disabilities, as required
by existing law, including this section, Title II of the federal
Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101
and following), and Section 504 of the Rehabilitation Act of 1973
(29 U.S.C. Sec. 794).
(d) (1) The Legislature finds and declares that the ability to utilize electronic or information technology is often an essential function for successful employment in the current work world.

(2) In order to improve accessibility of existing technology, and therefore increase the successful employment of individuals with disabilities, particularly blind and visually impaired and deaf and hard-of-hearing persons, state governmental entities, in developing, procuring, maintaining, or using electronic or information technology, either indirectly or through the use of state funds by other entities, shall comply with the accessibility requirements of Section 508 of the federal Rehabilitation Act of 1973, as amended (29 U.S.C. Sec. 794d), and regulations implementing that act as set forth in Part 1194 of Title 36 of the Federal Code of Regulations.

(3) Any entity that contracts with a state or local entity subject to this section for the provision of electronic or information technology or for the provision of related services shall agree to respond to, and resolve any complaint regarding accessibility of its products or services that is brought to the attention of the entity.

(e) As used in this section, "sex" and "sexual orientation" have the same meanings as those terms are defined in subdivisions (e) and (s) of Section 12926.

(f) As used in this section, "race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability" includes a perception that a person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics.

(g) As used in this section, "genetic information" has the same definition as in paragraph (2) of subdivision (c) of Section 51 of the Civil Code.

(h) As used in this section, "homeless status," or "people experiencing homelessness" means those individuals or members of families who lack a fixed, regular, and adequate nighttime residence.

(i) As used in this section, "public space" means any property that is owned by any government entity or any property upon which there is an easement for public use and that is held open to the public, including but not limited to, plazas, courtyards, parking lots, sidewalks, public transportation facilities and services, public buildings, shopping centers, and parks.
(j) As used in this section, "rest" means the state of not moving; holding certain postures that include, but are not limited to, sitting, standing, leaning, kneeling, squatting, sleeping, or lying. Rest also includes the act of protecting oneself from the elements, in a nonobstructive manner.

(k) The Legislature finds and declares that people with a homeless status lack a private space to rest, and, therefore, they must rest in a public space.

(l) It is the intent of the Legislature to protect the rights of all people, including those experiencing homelessness, in order to diminish the adverse effects of municipalities engaged in violating the fundamental right to rest.

(m) In order to ensure full and equal access to the benefits and protections afforded by this section against discrimination in the administration of any program or activity conducted, operated, or administered by the state or any state agency funded directly by the state, or that receives any financial assistance from the state, no city, county, city and county, or municipal agency that receives state funds shall enact or enforce a law that bans resting in a public space, as defined in Part 2.2 (commencing with Section 53.8) of Division 1 of the Civil Code.

SEC. 3.
Section 1139.2 is added to the Government Code, to read:

1139.2. To improve monitoring of discrimination based upon housing status and violations of Section 1135; Part 2.2 (commencing with Section 53.8) of Division 1 of the Civil Code, and to ensure that people who are experiencing homelessness are not unlawfully denied full and equal access to the benefits of state-funded programs or assistance, or unlawfully subjected to discrimination, all applicants for the United States Department of Housing and Urban Development’s Continuum of Care Homeless Assistance Program shall annually provide to the Department of Housing and Community Development’s Division of Housing Policy Development a copy of its application for funding from the United States Department of Housing and Urban Development that includes the organization’s response to the application question regarding steps that its community is taking to reduce criminalization of homelessness.
SEC. 5.
SEC. 4. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.