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THIRD READING

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Bill No: AB 2164  
Author: Lee (D), et al.  
Amended: 5/19/22 in Assembly  
Vote: 27

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SENATE GOVERNMENTAL ORG. COMMITTEE: 14-0, 6/14/22  
AYES: Dodd, Nielsen, Allen, Becker, Borgeas, Bradford, Hertzberg, Hueso,  
Jones, Kamlager, Melendez, Portantino, Roth, Wilk  
NO VOTE RECORDED: Glazer

SENATE JUDICIARY COMMITTEE: 10-0, 6/28/22  
AYES: Umberg, Caballero, Cortese, Durazo, Hertzberg, Jones, McGuire, Stern,  
Wieckowski, Wiener  
NO VOTE RECORDED: Borgeas

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 69-0, 5/25/22 - See last page for vote

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**SUBJECT:** Disability access: certified access specialist program: funding

**SOURCE:** City of San Jose

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**DIGEST:** This bill removes the sunset on the additional fee of \$4 for a business license issued by a city, county, or city and county, that's currently scheduled to expire on January 1, 2024, making the fee permanent. The fee is used for specified purposes related to disability access, including providing financial assistance to small businesses for construction of physical accessibility improvements.

**ANALYSIS:**

Existing law:

- 1) Provides, under the American Disabilities Act (ADA), that no individual shall be discriminated against on the basis of disability in the full and equal

enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases, or leases to, or operates a place of public accommodation.

- 2) Provides, pursuant to the Unruh Civil Rights Act, that all persons, regardless of sex, race, color, religion, ancestry, national origin, disability or medical condition, are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments.
- 3) Provides, pursuant to the Disabled Persons Act, that individuals with disabilities or medical conditions have the same right as the general public to the full and free use of streets, highways, sidewalks, public buildings, medical facilities, including hospitals, clinics and physicians' offices, public facilities and other public places.
- 4) Establishes the California Commission on Disability Access (CCDA), and generally makes the CCDA responsible for monitoring disability access compliance in California.
- 5) Requires the CCDA to use its funding, as appropriate, to provide information about preventing or minimizing compliance problems among California businesses, and recommending programs to enable persons with disabilities to obtain full and equal access to public facilities.
- 6) Requires, the Division of the State Architect (DSA) to establish the Certified Access Specialist (CAsp) Program and develop the specified criteria to have a person qualify as a CAsp.
- 7) Requires, on or after January 1, 2018, through December 31, 2023, any applicant for a local business license or equivalent instrument or permit, and any applicant for the renewal of a business license or equivalent instrument or permit, to pay an additional fee of \$4 for that license, instrument, or permit, which shall be collected by the city, county, or city and county that issued the license, instrument, or permit.
- 8) Provides that on and after January 1, 2024, the following shall apply:
  - a) Any applicant for a local business license or equivalent instrument or permit, and any applicant for the renewal of a business license or equivalent instrument or permit, shall pay an additional fee of \$1 for that license, instrument, or permit, which shall be collected by the city, county, or city and county that issued the license, instrument, or permit.

- b) In any city, county, or city and county that does not issue a business license or an equivalent instrument or permit, an applicant for a building permit shall pay an additional fee of \$1 for that building permit, which the city, county, or city and county that issued the building permit shall collect.
- 9) Requires the city, county, or city and county that collects the fees described above and retained by city, county, or city and county shall be the following amounts:
- a) On and after January 1, 2018, through December 31, 2023, inclusive, 90 percent.
  - b) On and after January 1, 2024, 70 percent.
- 10) Provides that any remaining amount of the fees collected and not retained by the city, county, or city and county described above shall be transmitted on a quarterly basis to the DSA for deposit in the DSA's Disability Access and Education Revolving Fund.
- 11) Requires each city, county, or city and county to make an annual report, commencing March 1, 2014, to the DSA of the total fees collected in the previous calendar year and of its distribution, including the moneys spent on administrative services, the activities undertaken and moneys spent to increase the CASp services, the activities undertaken and moneys spent to fund programs to facilitate accessibility compliance, and the moneys transmitted to DSA.

This bill:

- 1) Removes the sunset on the additional fee of \$4 for a business license, instrument, or permit, or building permit issued by a city, county, or city and county, currently scheduled to expire on January 1, 2024, making the fee permanent.
- 2) Requires that a city, county, or city and county that collects the fee described above, to deposit those funds in a local "Accessibility Compliance Fund" and allows the funds to be used to provide financial assistance to small businesses for construction of physical accessibility improvements.
- 3) Allows funds collected in the DSA Disability Access and Education Revolving Fund to be used for the purpose of providing financial assistance to small businesses for constructions of physical accessibility improvements.

- 4) Requires the annual report now submitted by each city, county, or city and county to the State Architect regarding the total fees they collect and distribute in the previous calendar year to also include the total amount of financial assistance provided to small businesses for construction of physical accessibility improvements and the number of small businesses that obtained financial assistance for construction of physical accessibility improvements.
- 5) Defines a “small business” to mean a business that has employed 50 or fewer employees on average over the past three years, or for the years it has been in existence if less than three years, as evidence by wage report forms filed with the Employment Development Department.

## Background

*Purpose of the Bill.* According to the author’s office, “accessibility of businesses remains a major concern despite existing legal protections and government assistance programs. It can be difficult for businesses to understand accessibility requirements and raise funds to make physical improvements. This is especially true for small business owners, those with limited English proficiency, and those who are struggling financially. AB 2164 supports local jurisdictions with sustained funding to improve accessibility in their regions by: (1) removing the January 1, 2024 fee sunset, enabling local governments to collect the \$4.00 business license fee indefinitely; and (2) clarifying local jurisdictions’ ability to use these funds for small business accessibility related grants.”

*CASp Program.* The CASp Program was created by SB 262 (Kuehl, Chapter 872, Statutes of 2003) and is designed to ensure that individuals participating in the CASp Program are knowledgeable of state and federal accessibility laws and regulations and possess the expertise to promote access to facilities for persons with disabilities. The CASp Program was created with the intent of offering business and facility owners a resource consisting of individuals with the appropriate knowledge demonstrated through examination.

CASp promotes access for persons with disabilities by promoting facility compliance with accessibility standards. Certification is granted to those who have established eligibility and have passed an examination based on knowledge and application of various state and federal accessibility codes, standards, and regulations. The CASp Program regulations describe the criteria for eligibility, examination, and certification.

Services rendered by a CASp may include the review of facility plans and specification for compliance with state and federal accessibility laws, standards,

codes, and regulations; investigation of a facility for compliance with state and federal accessibility laws, standards, codes, and regulations; conducting accessibility research, prepare accessibility reports, and/or conducting accessibility inspections; and issue inspection reports and disability access inspection certificates. The program benefits the disabled community by increasing accessibility around the state. At the same time, the program assists businesses to avoid costly lawsuits by helping to ensure that the businesses are compliant with accessibility requirements.

The CASp Program is funded through a fee on local business licenses, permits, or equivalent instruments. Until recently, the law required anyone taking out or renewing a local business license, permit, or equivalent instrument, to pay a one additional dollar fee for the license or permit. The city, county, or city and county, until recently, would retain 70 percent of the resulting revenue, which could be used primarily to train and retain certified access specialists in that jurisdiction. The remaining 30 percent of the revenue would go to the DSA for deposit into the Disability Access and Education Revolving Fund. These laws were originally set to expire on December 31, 2018.

In 2017, AB 1379 (Thurmond, Chapter 667, Statutes of 2017) increased CASp funding by requiring, on January 1, 2018, and through December 31, 2023, any applicant for a local business license or equivalent instrument or permit, and any applicant for the renewal of a business license or equivalent instrument or permit, to pay an additional fee of \$4 for that license, instrument, or permit, in order to fund CASp services by the city, county, or city and county that issued the license, instrument, or permit. At the same time, the bill allowed local jurisdictions to retain a larger percentage of the revenue – 90 percent -- generated by the fees for CASp training and disability access purposes. Finally, where the local jurisdiction did not charge for business licenses, AB 1379 imposed a fee on building permits. After five years, the fees were scheduled to revert back to the pre-AB 1379 amount of \$1 and the local rate of retention would return to the pre-AB 1379 amount of 70 percent. The goal of AB 1379 was to increase the availability of CASp services and ultimately improve overall business compliance with state and federal construction-related accessibility standards.

This bill makes permanent the temporary additional funds that were generated by the \$4 business license fee in AB 1379 that is scheduled to expire in 2024. These funds generated by the fees could increase the availability of CASp services as the fees authorized by AB 1379 did. These funds could also be used to provide financial assistance to small businesses for construction-related accessibility improvements.

**Related/Prior Legislation**

AB 1379 (Thurmond, Chapter 667, Statutes of 2017) increased, until December 31, 2023, funding for the CASp Program in order to increase availability of CASp services and improve compliance with state and federal construction-related accessibility standards.

**FISCAL EFFECT:** Appropriation: Yes Fiscal Com.: Yes Local: Yes

**SUPPORT:** (Verified 8/8/22)

City of San Jose (source)

Association of Regional Center Agencies

Brea Chamber of Commerce

California Building Industry Association

California Business Properties Association

California Chamber of Commerce

California Restaurant Association

Carlsbad Chamber of Commerce

CAWA - Representing the Automotive Parts Industry

Corona Chamber of Commerce

Danville Area Chamber of Commerce

El Dorado County Chamber of Commerce

El Dorado Hills Chamber of Commerce

Elk Grove Chamber of Commerce

Family Business Association of California

Folsom Chamber of Commerce

Fountain Valley Chamber of Commerce

Fremont Chamber of Commerce

Fresno Chamber of Commerce

Gilroy Chamber of Commerce

Greater Conejo Valley Chamber of Commerce

Greater High Desert Chamber of Commerce

Imperial Valley Regional Chamber of Commerce

La Canada Flintridge Chamber of Commerce

Laguna Niguel Chamber of Commerce

Long Beach Area Chamber of Commerce

Mission Viejo Chamber of Commerce

National Federation of Independent Business

Newport Beach Chamber of Commerce

Official Police Garages of Los Angeles

Rancho Cordova Area Chamber of Commerce  
Roseville Area Chamber of Commerce  
San Jose Chamber of Commerce  
Santa Ana Chamber of Commerce  
Santa Clarita Valley Chamber of Commerce  
Santa Maria Valley Chamber of Commerce  
Simi Valley Chamber of Commerce  
Tulare Chamber of Commerce  
United Chamber Advocacy Network  
Valley Industry and Commerce Association  
West Ventura County Business Alliance  
Yuba Sutter Chamber of Commerce

**OPPOSITION:** (Verified 8/8/222)

None received

**ARGUMENTS IN SUPPORT:** According to the City of San Jose, “for Californians with disabilities, barrier-free access to businesses and other facilities is a constant concern. Federal, state, and local governments provide some resources to help businesses comply with these accessibility requirements and reduce barriers for patrons with disabilities. State also requires local jurisdictions to collect a dedicated fee of \$4.00 for businesses licenses and business permit renewals to fund programs improving barrier-free access to businesses. Under current law, this fee will drop to \$1.00 after December 31, 2023. AB 2164 supports local jurisdictions by sustaining funding to improve accessibility in their regions. The bill removes the January 1, 2024 fee sunset, enabling local governments to collect the \$4.00 fee indefinitely. Additionally, AB 2164 would also clarify the ability for local jurisdictions to use these funds for grants so small businesses to fund accessibility-related certification, inspection, design, construction, and permitting fees.”

**ASSEMBLY FLOOR:** 69-0, 5/25/22

**AYES:** Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert

Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares,  
Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood,  
Rendon

NO VOTE RECORDED: Berman, Bigelow, Chen, Gallagher, Kiley, Lackey,  
O'Donnell, Seyarto, Smith

Prepared by: Felipe Lopez / G.O. / (916) 651-1530  
8/10/22 14:19:16

\*\*\*\* **END** \*\*\*\*