
SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION**Senator Bill Dodd****Chair****2021 - 2022 Regular**

Bill No:	AB 2164	Hearing Date:	6/14/2022
Author:	Lee, et al.		
Version:	5/19/2022 Amended		
Urgency:	No	Fiscal:	Yes
Consultant:	Felipe Lopez		

SUBJECT: Disability access: certified access specialist program: funding

DIGEST: This bill removes the sunset on the additional fee of four dollars 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 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 four dollars 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 one dollar 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 one dollar 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 Division of the State Architect (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 four dollars 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 four dollars 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 one dollar 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.

The bill would make permanent the temporary additional funds that were generated by the four dollar 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.

Prior/Related Legislation

AB 3002 (Grayson, Chapter 680, Statutes of 2018) promotes disability access at commercial and places of public accommodation by requiring local government agencies to provide building permit applicants with an advisory about federal and state disability access laws, encouragement to obtain an inspection from a CASp, information about how to contact a CASp, and notice regarding the availability of state and federal programs to assist small businesses with disability access expenditures.

AB 1379 (Thurmond, Chapter 667, Statutes of 2017) increases, 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.

AB 2873 (Thurmond, 2017) would have required, commencing January 1, 2020, that all building inspectors employed by a local agency who review for compliance with state construction related accessibility standards be a CASp, as specified. (Held in Senate Inactive File)

AB 2093 (Steinorth, Chapter 279, Statutes of 2016) increased the information available to the public, and to prospective tenants of commercial property about the American with Disabilities Act and a commercial property's compliance with construction-related accessibility standards.

AB 52 (Gray, 2015) would have provided that the defendant's maximum liability for statutory damages in a construction-related accessibility claim against a place of public accommodation is \$1,000 for each offense if the defendant has corrected all construction-related violations within 180 days of being served with the complaint. (Held in the Assembly Judiciary Committee)

AB 54 (Olsen, 2015) would have required a plaintiff who has been denied access to a public accommodation because of a construction-related accessibility violation of a standard which has changed in the past three years to give notice to the defendant 60 days before filing a complaint and an opportunity to cure the violation, with no statutory damages payable to the plaintiff. (Held in Assembly Revenue and Taxation Committee)

AB 1230 (Gomez, Chapter 787, Statutes of 2015) established the California Americans with Disabilities Act Small Business Compliance Act to provide loans to assist small businesses finance the costs of projects that alter or retrofit existing small business facilities to comply with the federal American with Disabilities Act.

AB 1342 (Steinorth, 2015) would have specified that the DSA shall require a CASp applicant to provide the location in which the CASp will provide services. (Vetoed by Governor Brown)

AB 1468 (Baker, 2015) would have provided that a public entity's possession of a close out letter from the DSA certifying that the buildings, facilities, and other places meet the applicable construction-related accessibility standards of the federal Americans with Disabilities Act, serves as presumptive evidence of compliance with the federal Americans with Disabilities Act. (Held in Assembly Judiciary Committee)

SB 67 (Galgiani, 2015) would have exempted a small business from statutory damage liability in connection with a construction-related accessibility claim and extends the period for correcting construction-related violations that are the basis of a claim from 60 days to 120 days of being served with the complaint, for purposes of reducing a defendant's minimum statutory damage liability to \$1,000. (Held in the Senate Judiciary Committee)

SB 1186 (Steinberg, Chapter 383, Statutes of 2012) required a \$1 additional fee to be paid by any applicant for a local business license, permit, or similar instrument when it is issued or renewed.

SB 1608 (Corbett, Chapter 549, Statutes of 2008) enacted the CDA and various other reforms intended to increase voluntary compliance with longstanding state and federal laws requiring access to the disabled in any place of public accommodation.

SB 262 (Kuehl, Chapter 872, Statutes of 2003) required the DSA to establish and publicize the CASp Program for voluntary certification by the state of any person who meets specified criteria as a CASp.

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

SUPPORT:

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:

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.”

DUAL REFERRAL: Governmental Organization Committee & Judiciary Committee