

REPORT TO CITY COUNCIL

DATE: APRIL 13, 2016

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: GREG RAMIREZ, CITY MANAGER *GR*

BY: NATHAN HAMBURGER, ASSISTANT CITY MANAGER *NH*

SUBJECT: REQUEST FOR A LETTER OF SUPPORT FOR ASSEMBLY BILL 2403
(BLOOM)

Staff has been approached by the California Contract Cities Association and Assembly Member Richard Bloom's Office in regards to a proposed piece of legislation, Assembly Bill 2403 (Bloom), that aims to help codify a process in which cities and counties will be notified of new license applications for any adult alcoholism and drug abuse recovery facilities within a single-family setting of six or fewer patients operating in a residential unit within their respective jurisdiction. In addition, the bill provides language amending existing legislation that would allow cities and counties to request denial of a license application for an "integral facility," due to an overconcentration, as defined by a 300-foot distancing requirement. An "integral facility," would be defined as two or more facilities located on the same or different parcels that serve 7 or more persons and are under the control or management of the same entity,

Currently, the California Department of Health Care Services licenses adult alcoholism and drug abuse recovery facilities and is not required by law to notify local jurisdictions of the pending applications. It should be pointed out though that City staff was notified on the most recent application for this type of license, asking staff to confirm if there was an overconcentration, and the staff at the Department of Health Care Services has been open about communicating with the City staff on the licenses up to this point, but insuring that the City is always notified helps insure the ability to respond within an established time frame to address any overconcentration considerations prior to the issuance of a license. Under the Federal American with Disabilities statutes, individuals that meet the requirements of alcoholism, drug addiction and recovering addicts are a protected class and cannot be discriminated against. AB 2403 acknowledges the need for these treatment facilities but aims to insure that residential neighborhoods do not have an overconcentration of them, which can have detrimental effect on the surrounding neighborhood. Staff has been approached over the past year by several residents and encouraged the City to work with state and federal officials to address some of the impacts of an overconcentration of these facilities operating in residential neighborhoods.

RECOMMENDATION

Staff respectfully recommends the City Council authorize the Mayor Pro Tem to sign a letter of support for Assembly Bill 2403 and direct staff to provide it to the City's respective State representative and authors of the bill.

Attachments:

- (1) Assembly Bill 2403 (Bloom) – April 5, 2016 version
- (2) Letter of Support for Assembly Bill 2403 (Bloom)

Attachment 1

Assembly Bill 2403 – Edited April 5, 2016



LEGISLATIVE INFORMATION

AB-2403 Alcoholism or drug abuse recovery or treatment facilities. (2015-2016)

AMENDED IN ASSEMBLY APRIL 05, 2016

CALIFORNIA LEGISLATURE— 2015-2016 REGULAR SESSION

ASSEMBLY BILL

No. 2403

**Introduced by Assembly Member Bloom
(Principal coauthor: Assembly Member Wilk)
(Principal coauthor: Senator Allen)
(Coauthor: Assembly Member Brough)**

February 19, 2016

An act to amend ~~Section 11834.09~~ Sections 11834.02, 11834.09, 11834.20, and 11834.23 of the Health and Safety Code, relating to alcoholism and drug abuse.

LEGISLATIVE COUNSEL'S DIGEST

AB 2403, as amended, Bloom. Alcoholism or drug abuse recovery or treatment facilities.

Existing law provides for the licensure, certification, and regulation of alcoholism or drug abuse recovery or treatment facilities, as defined, administered by the State Department of Health Care Services. Existing law authorizes the department, if certain criteria are met, to issue a single license to a residential facility or a facility wherein separate buildings or portions of a residential facility are integral components of a single alcoholism or drug abuse recovery or treatment facility and all of the components of the facility are managed by the same licensee.

This bill would instead require the department, if certain criteria are met, to issue a single license to a residential facility or integral facilities and would define ~~integral facilities~~ "integral facilities" to mean any combination of ~~two~~ 2 or more facilities located on the same or different parcels that collectively serve 7 or more persons, ~~not including the licensee or members of the licensee's family or persons employed as facility staff, as specified,~~ and that are under the control or management of the same ~~owner, operator, management company, or licensee, or any affiliate of any of them,~~ entity, as specified, or which together comprise one operation or enterprise.

This bill would require the department to deny an application for a new facility license if the proposed location is in proximity to an existing facility that would result in overconcentration. The bill would define "overconcentration" as 2 or more alcoholism or drug abuse recovery or treatment facilities being separated by a distance of 300 feet or less, as specified, with the exception of facilities that combine to form integral

facilities. The bill would authorize the department, notwithstanding this provision, to approve a separation distance of less than 300 feet if the proximity of facilities to one another would not conflict with regulations of the city or county in which the proposed facility will be located.

The bill would authorize a city or county to request denial of the license applied for on the basis of an overconcentration of facilities. The bill would require the department or county licensing agency, at least 45 days prior to approving an application for a new facility, to notify the appropriate city or county planning agency, as specified, of the proposed location of the facility. By imposing new duties on local officials, the bill would create a state-mandated local program.

Existing law requires an alcoholism or drug abuse recovery or treatment facility that serves 6 or fewer persons to be considered a residential use of property, as specified, and requires the residents and operators of the facility to be considered a family for the purposes of any law or zoning ordinance that relates to the residential use of property.

This bill would provide that the above provision does not apply to integral facilities and would provide that a city, county, or city and county whose application of zoning ordinances to a licensed facility is restricted by these provisions is an interested party with standing to pursue any available administrative appeals or otherwise seek judicial review of the licensing decision of the department and enforce the above provisions.

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.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: ~~no~~yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 11834.02 of the Health and Safety Code is amended to read:

11834.02. (a) As used in this chapter, "~~alcoholism or drug abuse recovery or treatment facility~~" or "~~facility~~" facility or facilities," "facility," or "facilities" means any premises, place, or building that provides 24-hour residential nonmedical services to adults who are recovering from problems related to alcohol, drug, or alcohol and drug misuse or abuse, and who need alcohol, drug, or alcohol and drug recovery treatment or detoxification services.

(b) As used in this chapter, "adults" may include, but is not limited to, all of the following:

(1) Mothers over 18 years of age and their children.

(2) Emancipated minors, which may include, but is not limited to, mothers under 18 years of age and their children.

(c) As used in this chapter, "emancipated minors" means persons under 18 years of age who have acquired emancipation status pursuant to Section 7002 of the Family Code.

(d) As used in this chapter, "integral facilities" means any combination of two or more facilities located on the same or different parcels that collectively serve seven or more persons, not including the licensee or members of the licensee's family or persons employed as facility staff, and that are under the control or management of the same owner, operator, management company, or licensee, or any affiliate of any of them, or which together comprise one operation or enterprise. Integral facilities shall include, but not be limited to, the provision of housing in one facility and recovery programming, treatment, meals, or any other service at another facility or facilities, or by assigning staff or a consultant to provide services to or in more than one facility.

(~~d~~)

(e) Notwithstanding subdivision (a), an alcoholism or drug abuse recovery or treatment facility may serve

adolescents upon the issuance of a waiver granted by the department pursuant to regulations adopted under subdivision (c) of Section 11834.50.

SECTION 4. SEC. 2. Section 11834.09 of the Health and Safety Code is amended to read:

11834.09. (a) Upon receipt of a completed written application, fire clearance, and licensing fee from the prospective licensee, and subject to the department's review and determination that the prospective licensee can comply with this chapter and regulations adopted pursuant to this chapter, the department shall issue a single license to the following types of alcoholism or drug abuse recovery or treatment facilities:

(1) A residential ~~facility.~~ *facility, other than integral facilities.*

(2) ~~Integral facilities. As used in this section, "integral facilities" means any combination of two or more facilities located on the same or different parcels that collectively serve seven or more persons, not including the licensee or members of the licensee's family or persons employed as facility staff and that are under the control or management of the same owner, operator, management company, or licensee, or any affiliate of any of them, or which together comprise one operation or enterprise. Integral facilities shall include, but not be limited to, the provision of housing in one facility and recovery programming, treatment, meals, or any other service at another facility, or facilities, or by assigning staff or a consultant to provide services to or in more than one facility.~~ *facilities, as defined in subdivision (d) of Section 11834.02.*

(b) Failure to submit a completed written application, fire clearance, and payment of the required licensing fee in a timely manner shall result in termination of the department's licensure review and shall require submission of a new application by the prospective licensee.

(c) Failure of the prospective licensee to demonstrate the ability to comply with this chapter or the regulations adopted pursuant to this chapter shall result in departmental denial of the prospective licensee's application for licensure.

SEC. 3. Section 11834.20 of the Health and Safety Code is amended to read:

11834.20. (a) The Legislature hereby declares that it is the policy of this state that each county and city shall permit and encourage the development of sufficient numbers and types of alcoholism or drug abuse recovery or treatment facilities as are commensurate with local need.

(b) (1) *It shall be presumed that local need is satisfied, and the department shall deny an application for a new facility license, if the proposed location is in proximity to an existing facility that would result in overconcentration.*

(2) *As used in this section, "overconcentration" means that if a new license is issued, two or more alcoholism or drug abuse recovery or treatment facilities will be separated by a distance of 300 feet or less, as measured from the nearest property line on which an existing facility is located to the nearest property line of the proposed facility. The siting of facilities that combine to form integral facilities within 300 feet of one another shall not result in overconcentration.*

(3) *Notwithstanding paragraphs (1) and (2), based on special local needs and conditions, the department may approve a separation distance of less than 300 feet if the proximity of facilities to one another would not conflict with regulations of the city or county in which the proposed facility will be located.*

(c) *Any city or county may request denial of the license applied for on the basis of an overconcentration of facilities.*

(d) *At least 45 days prior to approving any application for a new facility, the department or county licensing agency shall notify in writing the planning agency of the city, if the facility is to be located in the city, or the planning agency of the county, if the facility is to be located in an unincorporated area, of the proposed location of the facility.*

The

(e) *The provisions of this article apply equally to any chartered city, general law city, county, city and county,*

district, and any other local public entity.

For

(f) For the purposes of this article, "six or fewer persons" does not include the licensee or members of the licensee's family or persons employed as facility staff.

SEC. 4. *Section 11834.23 of the Health and Safety Code is amended to read:*

11834.23. (a) Whether or not unrelated persons are living together, an alcoholism or drug abuse recovery or treatment facility that serves six or fewer persons shall be considered a residential use of property for the purposes of this article. In addition, the residents and operators of the facility shall be considered a family for the purposes of any law or zoning ordinance that relates to the residential use of property pursuant to this article.

(b) For the purpose of all local ordinances, an alcoholism or drug abuse recovery or treatment facility that serves six or fewer persons shall not be included within the definition of a boarding house, rooming house, institution or home for the care of minors, the aged, or persons with mental health disorders, foster care home, guest home, rest home, community residence, or other similar term that implies that the alcoholism or drug abuse recovery or treatment home is a business run for profit or differs in any other way from a single-family residence.

(c) This section shall not be construed to forbid a city, county, or other local public entity from placing restrictions on building heights, setback, lot dimensions, or placement of signs of an alcoholism or drug abuse recovery or treatment facility that serves six or fewer persons as long as the restrictions are identical to those applied to other single-family residences.

(d) This section shall not be construed to forbid the application to an alcoholism or drug abuse recovery or treatment facility of any local ordinance that deals with health and safety, building standards, environmental impact standards, or any other matter within the jurisdiction of a local public entity. However, the ordinance shall not distinguish alcoholism or drug abuse recovery or treatment facilities that serve six or fewer persons from other single-family dwellings or distinguish residents of alcoholism or drug abuse recovery or treatment facilities from persons who reside in other single-family dwellings.

(e) No conditional use permit, zoning variance, or other zoning clearance shall be required of an alcoholism or drug abuse recovery or treatment facility that serves six or fewer persons that is not required of a single-family residence in the same zone.

(f) Use of a single-family dwelling for purposes of an alcoholism or drug abuse recovery facility serving six or fewer persons shall not constitute a change of occupancy for purposes of Part 1.5 (commencing with Section 17910) of Division 13 or local building codes. However, nothing in this section is intended to supersede Section 13143 or 13143.6, to the extent those sections are applicable to alcoholism or drug abuse recovery or treatment facilities serving six or fewer residents.

(g) *This section shall not apply to integral facilities, as defined in subdivision (d) of Section 11834.02.*

(h) *A city, county, or city and county whose application of zoning ordinances to a licensed alcoholism or drug abuse recovery or treatment facility is restricted by this section is an interested party with standing to pursue any available administrative appeals or otherwise seek judicial review of the licensing decision of the department and enforce the provisions of this chapter.*

SEC. 5. *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.*

Attachment 2

Letter of Support for Assembly Bill 2403 (Bloom)



"Gateway to the Santa Monica Mountains National Recreation Area"

April 13, 2016

Assemblymember Jim Wood Chair, Assembly Committee on Health
State Capitol Room 6005
Sacramento, CA 95814

RE: AB 2403 (Bloom) Alcohol and Drug Abuse Recovery or Treatment Facilities - SUPPORT

Dear Assemblymember Wood,

On behalf of the City of Agoura Hills, I am writing to express strong support for AB 2403 (Bloom), which helps maintain residential neighborhoods as a therapeutic environment for the social integration of high functioning disabled persons, including recovering alcoholics and addicts. It is understood that treatment centers serve an important purpose for those patients in need of the provided services, and that they are attempting to find locations that are conducive to those needs. However, what was not anticipated was that existing laws would be manipulated for the advantage of business owners to garner maximum profits. Business owners have found loopholes within the existing laws and have exploited them for personal gain. The single rehabilitation facility nestled into the fabric of a residential neighborhood has been taken over by companies that have created multi-structure, campus-style facilities within a residentially zoned neighborhood. The overconcentrated campus style facilities are more profitable than standalone facilities and they can drastically change the character of a neighborhood, causing it to become more similar to a hospital zone or busy commercial center. Most importantly, the campus style facilities eliminate a vital benefit to the patient, which is to become part of the fabric of a community.

Under AB 2403 cities and counties would be given notice of State license applications, and the municipality could help recognize overconcentration, which is defined as having two facilities separated by less than 300 feet. This noticing and distancing provision is consistent with current California law for other types of group homes' housing for protected classes of disabled people. Specifically, existing state law imposes noticing and 300-foot distancing requirements for every existing licensed group home in California, with the exception of alcohol and drug recovery facilities. AB 2403 would simply provide consistency with all other State licensed group homes to protect existing neighborhoods and protect the therapeutic, nurturing environment that benefits all categories of protected residents recovering in State-licensed group homes.

This bill is consistent with the Fair Housing Act (FHA) and advances state policy favoring residential/social model care facilities for persons with disabilities. The City of Agoura Hills supports AB 2403, and we request your support to help prevent overconcentration of multi-structure facilities in residential neighborhoods in order to maintain the purpose and integrity of neighborhood care programs.

Should you require any further information, please contact Nathan Hamburger, Assistant City Manager at (818) 597-7308 or Nhamburger@ci.agoura-hills.ca.us

Sincerely,

Denis Weber
Mayor Pro Tem