

AMENDED IN ASSEMBLY JANUARY 4, 2010

AMENDED IN ASSEMBLY APRIL 28, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 113

Introduced by Assembly Member Portantino

January 13, 2009

~~An act to add Section 118.2 to the Streets and Highways Code, relating to highways, and declaring the urgency thereof, to take effect immediately. An act to amend Section 1367.65 of, and to add Section 1367.651 to, the Health and Safety Code, and to amend Section 10123.81 of, and to add Section 10123.815 to, the Insurance Code, relating to health care coverage.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 113, as amended, Portantino. ~~Highways: Route 710: sale of property.~~ *Health care coverage: mammographies.*

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law also provides for the regulation of health insurers by the Department of Insurance. Under existing law, a health care service plan contract, except a specialized health care service plan contract, that is issued, amended, delivered, or renewed on or after January 1, 2000, is deemed to provide coverage for mammography for screening or diagnostic purposes upon referral by a participating nurse practitioner, participating certified nurse-midwife, or participating physician, providing care to the patient and operating within the scope of practice provided under existing law. Under existing

law, an individual or group policy of disability insurance that is issued, amended, delivered, or renewed on or after January 1, 2000, is deemed to provide specified coverage based upon age for mammography for screening or diagnostic purposes upon referral by a participating nurse practitioner, participating certified nurse-midwife, or participating physician, providing care to the patient and operating within the scope of practice provided under existing law.

This bill would provide that health care service plan contracts and individual or group policies of health insurance issued, amended, delivered, or renewed on or after July 1, 2011, shall be deemed to provide coverage for mammographies for screening or diagnostic purposes upon referral of a participating nurse practitioner, participating certified nurse-midwife, participating physician assistant, or participating physician, as specified. The bill would, commencing July 1, 2011, require plans and insurers subject to these provisions to provide subscribers or policyholders with information regarding recommended timelines for an individual to undergo tests for the screening or diagnosis of breast cancer, as specified.

Because this bill would specify additional requirements for health care service plans, the willful violation of which would be a crime, 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 no reimbursement is required by this act for a specified reason.

~~Existing law authorizes the Department of Transportation to acquire real property for state highway purposes. Existing law specifies various procedures to be followed by the department when it determines that real property acquired for state highway purposes is no longer necessary for those purposes, generally under terms and conditions established by the California Transportation Commission. Existing law establishes specific procedures for the sale by public agencies of surplus residential property, under which property may be sold at less than fair market value in certain cases.~~

~~This bill would require the department to sell the real property it owns relative to the unconstructed portion of State Highway Route 710 in Los Angeles County located to the north of State Highway Route 10, with residential property to be sold using the process for sale of surplus~~

residential real property, except that property occupied since at least January 1, 2004, by a school or nonprofit organization would first be offered to the occupant.

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: $\frac{2}{3}$ -majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~no~~-yes.

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

1 SECTION 1. Section 1367.65 of the Health and Safety Code
2 is amended to read:

3 1367.65. (a) On or after January 1, 2000, every health care
4 service plan contract, except a specialized health care service plan
5 contract, that is issued, amended, delivered, or renewed shall be
6 deemed to provide coverage for mammography for screening or
7 diagnostic purposes upon referral by a participating nurse
8 practitioner, participating certified nurse midwife, or participating
9 physician, providing care to the patient and operating within the
10 scope of practice provided under existing law.

11 (b) *On or after July 1, 2011, every health care service plan*
12 *contract, except a specialized health care service plan contract,*
13 *that is issued, amended, delivered, or renewed shall be deemed to*
14 *provide coverage for mammography for screening or diagnostic*
15 *purposes upon referral by a participating nurse practitioner,*
16 *participating certified nurse midwife, participating physician*
17 *assistant, or participating physician, providing care to the patient*
18 *and operating within the scope of practice provided under existing*
19 *law.*

20 (c) Nothing in this section shall be construed to prevent
21 application of copayment or deductible provisions in a plan, nor
22 shall this section be construed to require that a plan be extended
23 to cover any other procedures under an individual or a group health
24 care service plan contract. Nothing in this section shall be construed
25 to authorize a plan enrollee to receive the services required to be
26 covered by this section if those services are furnished by a
27 nonparticipating provider, unless the plan enrollee is referred to
28 that provider by a participating ~~physician nurse practitioner, or~~
29 ~~certified nurse midwife~~ *provider identified in subdivision (a) or*
30 *(b), as applicable, providing care to the patient.*

1 SEC. 2. Section 1367.651 is added to the Health and Safety
 2 Code, to read:

3 1367.651. Commencing July 1, 2011, a health care service
 4 plan subject to Section 1367.6 or 1367.65 shall provide a
 5 subscriber with information regarding recommended timelines for
 6 an individual to undergo tests for the screening or diagnosis of
 7 breast cancer. This information may be provided by written letter
 8 sent to the subscriber, by publication in a newsletter sent to the
 9 subscriber, by publication in evidence of coverage, by direct
 10 telephone call to the subscriber, by electronic transmission, by
 11 Web-based portal containing various plan and benefit information
 12 if the subscriber has access to that portal, or by any other means
 13 that will reasonably notify the subscriber of the recommended
 14 timelines for testing. Communications made by a plan's contracted
 15 providers that satisfy the requirements of this section shall
 16 constitute compliance by the plan with this section.

17 SEC. 3. Section 10123.81 of the Insurance Code is amended
 18 to read:

19 10123.81. (a) On or after January 1, 2000, every individual
 20 or group policy of disability insurance or self-insured employee
 21 welfare benefit plan that is issued, amended, or renewed, shall be
 22 deemed to provide coverage for at least the following, upon the
 23 referral of a nurse practitioner, certified nurse-midwife, or
 24 physician, providing care to the patient and operating within the
 25 scope of practice provided under existing law for breast cancer
 26 screening or diagnostic purposes:

27 (a)

28 (1) A baseline mammogram for women age 35 to 39, inclusive.

29 (b)

30 (2) A mammogram for women age 40 to 49, inclusive, every
 31 two years or more frequently based on the women's physician's
 32 recommendation.

33 (c)

34 (3) A mammogram every year for women age 50 and over.

35 (b) On or after July 1, 2011, every individual or group policy
 36 of health insurance that is issued, amended, delivered, or renewed
 37 shall be deemed to provide coverage for mammography for
 38 screening or diagnostic purposes upon referral by a participating
 39 nurse practitioner, participating certified nurse-midwife,
 40 participating physician assistant, or participating physician,

1 *providing care to the patient and operating within the scope of*
2 *practice provided under existing law.*

3 **Nothing**

4 (c) *Nothing* in this section shall be construed to require an
5 individual or group policy to cover the surgical procedure known
6 as mastectomy or to prevent application of deductible or copayment
7 provisions contained in the policy or plan, nor shall this section
8 be construed to require that coverage under an individual or group
9 policy be extended to any other procedures.

10 **Nothing**

11 (d) *Nothing* in this section shall be construed to authorize an
12 insured or plan member to receive the coverage required by this
13 section if that coverage is furnished by a nonparticipating provider,
14 unless the insured or plan member is referred to that provider by
15 a participating ~~physician nurse practitioner, or certified nurse~~
16 ~~midwife~~ *provider identified in subdivision (a) or (b), as applicable,*
17 *providing care to the patient.*

18 (e) *This section shall not apply to specialized health insurance,*
19 *Medicare supplement insurance, short-term limited duration health*
20 *insurance, CHAMPUS supplement insurance, TRI-CARE*
21 *supplement insurance, or to hospital indemnity, accident-only, or*
22 *specified disease insurance.*

23 **SEC. 4.** *Section 10123.815 is added to the Insurance Code, to*
24 *read:*

25 *10123.815. (a) Commencing July 1, 2011, a health insurer*
26 *subject to Section 10123.8 or 10123.81 shall provide a policyholder*
27 *with information regarding recommended timelines for an*
28 *individual to undergo tests for the screening or diagnosis of breast*
29 *cancer. This information may be provided by written letter sent to*
30 *the policyholder, by publication in a newsletter sent to the*
31 *policyholder, by publication in evidence of coverage, by direct*
32 *telephone call to the policyholder, by electronic transmission, by*
33 *Web-based portal containing various plan or policy and benefit*
34 *information if the policyholder has access to that portal, or by any*
35 *other means that will reasonably notify the policyholder of the*
36 *recommended timelines for testing. Communications made by an*
37 *insurer's contracted providers that satisfy the requirements of this*
38 *section shall constitute compliance by the insurer with this section.*

39 (b) *This section shall not apply to specialized health insurance,*
40 *Medicare supplement insurance, short-term limited duration health*

1 insurance, CHAMPUS supplement insurance, TRI-CARE
2 supplement insurance, or to hospital indemnity, accident-only, or
3 specified disease insurance.

4 SEC. 5. No reimbursement is required by this act pursuant to
5 Section 6 of Article XIII B of the California Constitution because
6 the only costs that may be incurred by a local agency or school
7 district will be incurred because this act creates a new crime or
8 infraction, eliminates a crime or infraction, or changes the penalty
9 for a crime or infraction, within the meaning of Section 17556 of
10 the Government Code, or changes the definition of a crime within
11 the meaning of Section 6 of Article XIII B of the California
12 Constitution.

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

15 ~~(a) Beginning in the 1950s, the Department of Transportation~~
16 ~~(Caltrans) began acquiring property by eminent domain for the~~
17 ~~purpose of extending the Long Beach Freeway (Route 710) through~~
18 ~~Alhambra, El Sereno, South Pasadena, and Pasadena, but when~~
19 ~~local opposition stalled the project, Caltrans began renting the~~
20 ~~residential properties in the interim.~~

21 ~~(b) Over 50 years later, there continue to be over 500 residential~~
22 ~~properties along the uncompleted 710 corridor within the~~
23 ~~communities of Pasadena, South Pasadena, and El Sereno,~~
24 ~~including 95 "historic" homes, whose current tenants represent an~~
25 ~~economically and ethnically diverse group of families having an~~
26 ~~average tenancy of 20 years.~~

27 ~~(c) A series of articles published in October 2006 by the Orange~~
28 ~~County Register brought to light how Caltrans' appetite for~~
29 ~~property acquisition has turned neighborhoods into eyesores and~~
30 ~~deprived local government of millions of dollars in property taxes.~~

31 ~~(d) Those articles prompted a legislative hearing leading to the~~
32 ~~discovery that not only was Caltrans negligent in its maintenance~~
33 ~~of the properties, but that it lacked a comprehensive and accurate~~
34 ~~surplus property inventory.~~

35 ~~(e) According to a Bureau of State Audits report, "California's~~
36 ~~agencies have not developed and implemented property inventory~~
37 ~~systems that serve as effective management tools for real property~~
38 ~~or that provide reliable reports. Neither General Services nor~~
39 ~~Caltrans has complete, accurate databases that would aid them in~~
40 ~~managing real property."~~

1 (f) Caltrans has publicly stated numerous times its desire to exit
2 the property management business and has mentioned the sale of
3 these properties as one means of achieving that goal.

4 (g) According to a report by the State Auditor, “When such
5 properties sit idle, the State does not benefit from funds it would
6 receive by selling or leasing these properties, and it may incur
7 unnecessary maintenance costs. Moreover, until leased or sold,
8 these properties are not available for other purposes, such as
9 housing, parks, or open space.”

10 (h) According to an estimate by the Southern California
11 Association of Governments, the sale of the properties along the
12 uncompleted 710 corridor would generate five hundred million
13 dollars (\$500,000,000) that could be used to fund vital state
14 programs, especially during these difficult economic times.

15 (i) The Legislature has repeatedly found that the revenues
16 derived from disposition of surplus properties owned by state
17 agencies should be utilized to further state policies.

18 (j) Beginning with Section 54235 of the Government Code (also
19 referred to as the Roberti Bill), the Legislature has found that land
20 acquisition for highways has contributed to the severe shortage of
21 affordable housing, as well as to the disruption of neighborhoods
22 and communities, and has reaffirmed that the provision of decent
23 housing for all Californians is a state goal of the highest priority.

24 SEC. 2. Section 118.2 is added to the Streets and Highways
25 Code, to read:

26 118.2. Notwithstanding any other provision of law, the
27 department shall sell the real property it owns relative to the
28 unconstructed portion of State Highway Route 710 in Los Angeles
29 County located to the north of State Highway Route 10. Any
30 residential real property to be sold pursuant to this section shall
31 be sold using the process for sale of surplus residential property
32 set forth in Article 8.35 (commencing with Section 54235) of
33 Chapter 5 of Part 1 of Division 2 of Title 5 of the Government
34 Code, except that, with respect to property occupied since at least
35 January 1, 2004, by a school or a nonprofit organization, the
36 occupant shall be offered the right of first refusal to purchase the
37 property.

38 SEC. 3. This act is an urgency statute necessary for the
39 immediate preservation of the public peace, health, or safety within

- 1 ~~the meaning of Article IV of the Constitution and shall go into~~
- 2 ~~immediate effect. The facts constituting the necessity are:~~
- 3 ~~In order to address the state's fiscal crisis as quickly as possible,~~
- 4 ~~it is necessary that this act take effect immediately.~~

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