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


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.


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

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

1367.65. (a) On or after January 1, 2000, every health care service plan contract, except a specialized health care service plan contract, that is issued, amended, delivered, or renewed shall be 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.

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

(c) Nothing in this section shall be construed to prevent application of copayment or deductible provisions in a plan, nor shall this section be construed to require that a plan be extended to cover any other procedures under an individual or a group health care service plan contract. Nothing in this section shall be construed to authorize a plan enrollee to receive the services required to be covered by this section if those services are furnished by a nonparticipating provider, unless the plan enrollee is referred to that provider by a participating physician nurse practitioner, or certified nurse midwife provider identified in subdivision (a) or (b), as applicable, providing care to the patient.
SEC. 2. Section 1367.651 is added to the Health and Safety Code, to read:

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

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

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

1. A baseline mammogram for women age 35 to 39, inclusive.
2. A mammogram for women age 40 to 49, inclusive, every two years or more frequently based on the women’s physician’s recommendation.
3. A mammogram every year for women age 50 and over.

(b) On or after July 1, 2011, every individual or group policy of health insurance that is issued, amended, delivered, or renewed shall be deemed to provide coverage for mammography for screening or diagnostic purposes upon referral by a participating nurse practitioner, participating certified nurse-midwife, participating physician assistant, or participating physician,
providing care to the patient and operating within the scope of practice provided under existing law.

Nothing

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

Nothing

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

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

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

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

(b) This section shall not apply to specialized health insurance, Medicare supplement insurance, short-term limited duration health
insurance, CHAMPUS supplement insurance, TRI-CARE supplement insurance, or to hospital indemnity, accident-only, or specified disease insurance.

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

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

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

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

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

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

(e) According to a Bureau of State Audits report, “California’s agencies have not developed and implemented property inventory systems that serve as effective management tools for real property or that provide reliable reports. Neither General Services nor Caltrans has complete, accurate databases that would aid them in managing real property.”
(f) Caltrans has publicly stated numerous times its desire to exit the property management business and has mentioned the sale of these properties as one means of achieving that goal.

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

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

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

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

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

118.2. Notwithstanding any other provision of law, the department shall 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. Any residential real property to be sold pursuant to this section shall be sold using the process for sale of surplus residential property set forth in Article 8.35 (commencing with Section 54235) of Chapter 5 of Part 1 of Division 2 of Title 5 of the Government Code, except that, with respect to property occupied since at least January 1, 2004, by a school or a nonprofit organization, the occupant shall be offered the right of first refusal to purchase the property.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within
the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to address the state’s fiscal crisis as quickly as possible, it is necessary that this act take effect immediately.