

An act to add Chapter 13 (commencing with Section 14985) to Part 5.5 of Division 3 of Title 2 of, and to repeal Chapter 3.7 (commencing with Section 8299) of Division 1 of Title 2 of, the Government Code, relating to disability access.



170969689215BILL

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

SECTION 1. Chapter 3.7 (commencing with Section 8299) of Division 1 of Title 2 of the Government Code is repealed.

SEC. 2. Chapter 13 (commencing with Section 14985) is added to Part 5.5 of Division 3 of Title 2 of the Government Code, to read:

CHAPTER 13. CALIFORNIA COMMISSION ON DISABILITY ACCESS

14985. The Legislature finds and declares that, despite the fact that state law has provided persons with disabilities the right to full and equal access to public facilities since 1968, and that a violation of the right of any person under the Americans with Disabilities Act of 1990 (Public Law 101-336; 42 U.S.C. Sec. 12101 et seq.) has also constituted a violation of the Unruh Civil Rights Act (Section 51 of the Civil Code) since 1992, persons with disabilities are still being denied full and equal access to public facilities in many instances. The Legislature further finds and declares that businesses in California have the responsibility to provide full and equal access to public facilities as required in the laws and regulations, but that compliance may be thwarted in some cases by conflicting state and federal regulations, which in turn results in unnecessary litigation. With a view to developing recommendations that will enable persons with disabilities to exercise their right to full and equal access to public facilities, and that will facilitate business compliance with the laws and regulations to avoid unnecessary litigation, the Legislature has created the California Commission on Disability Access within the Department of General Services.



14985.1. (a) There shall be established in the state government, on or before May 1, 2009, the California Commission on Disability Access. The commission shall consist of 11 public members, and six ex officio nonvoting members, appointed as follows:

(1) Two public members appointed by the Senate Committee on Rules, with one appointee from the business community and one appointee from the disability community. The Senate Committee on Rules shall request and consider nominations from the business community and the disability community for these appointments.

(2) Two public members appointed by the Speaker of the Assembly, with one appointee from the business community and one appointee from the disability community. The Speaker of the Assembly shall request and consider nominations from the business community and the disability community for these appointments.

(3) Seven public members appointed by the Governor, with the consent of the Senate. Four of the Governor's appointees shall be from the disability community. Three appointees shall be from the business community, including an appointee representative from the California Business Properties Association. The Governor shall request and consider nominations from the business community and the disability community for these appointments.

(4) The State Architect, or his or her representative, as a nonvoting ex officio member.

(5) The Attorney General, or his or her representative, as a nonvoting ex officio member.



(6) Two members of the Senate, appointed by the Senate Committee on Rules as nonvoting ex officio members. One member shall be from the majority party, and one member shall be from the minority party.

(7) Two members of the Assembly, appointed by the Speaker of the Assembly, as nonvoting ex officio members. One member shall be from the majority party, and one member shall be from the minority party.

(b) It is the intent of this section that the commission shall be broadly representative of the ethnic, gender, and racial diversity of the population of California. It is further the intent of this section that both of the following apply:

(1) The appointees from the disability community shall be persons with a disability relating to, but not limited to, vision, hearing, mobility, breathing, speech, cognitive, cardiac, emotional, developmental, learning, psychological, or immunological disabilities.

(2) The commission recruitment and appointment process shall engage in identifying qualified disability community representatives who should possess elements of the following qualifications:

(A) Identify as people with disabilities, activity limitations, or both.

(B) Have personal experience with disability and disability advocacy and the ability to speak broadly on disability access issues.

(C) Are knowledgeable about cross-disability access issues, including, but not limited to, hearing, vision, mobility, speech, and cognitive limitations.

(D) Are knowledgeable about a variety of physical, communication, and program access issues.



(E) Are involved with segments of national, state, or local constituencies of the disability community, such as active involvement in broad-based disability organizations.

(F) Have in place and use communication networks to facilitate communication with the segments of the disability community they are representing, including, but not limited to, segments of diverse ethnic, cultural, sex, sexual orientation, age, and linguistic communities that are representative of the diverse population of Californians with disabilities.

(c) Public members shall be appointed for three-year terms, except that, with respect to the initial appointees, the Governor shall appoint three members for a one-year term, two members for a two-year term, and two members for a three-year term. The Senate Committee on Rules and the Speaker of the Assembly shall each initially appoint one member for a two-year term and one member for a three-year term. Public members may be reappointed for additional terms.

(d) Vacancies shall be filled by the appointing authority for the unexpired portion of the terms.

(e) Beginning July 1, 2017, the California Commission on Disability Access shall reside within the Department of General Services.

14985.2. (a) Public members of the commission shall receive one hundred dollars (\$100) per diem while on official business of the commission, not to exceed 12 days per year. Each member of the commission shall also be entitled to receive his or her actual necessary traveling expenses while on official business of the commission.



(b) The commission shall select annually from its membership a chairperson who shall be a representative from the disability community, and a vice chairperson who shall be a representative from the business community.

14985.3. Meetings of the commission shall be subject to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2).

14985.4. The commission shall have the powers and authority necessary to carry out the duties imposed upon it by this chapter, including, but not limited to, the following:

(a) To employ any administrative, technical, or other personnel that may be necessary for the performance of its powers and duties.

(b) To hold hearings, make and sign any agreement, and do or perform any act, including the collection of relevant information, that may be necessary, desirable, or proper to carry out the purposes of this chapter.

(c) To cooperate with, and secure the cooperation of, any department, division, board, bureau, commission, or other agency of the state to facilitate the proper execution of its powers and duties under this chapter.

(d) To appoint advisers or advisory committees from time to time when the commission determines that the experience or expertise of those advisers or advisory committees is needed for projects of the commission. Section 11009 shall apply to advisers or advisory committees.

(e) To accept any federal funds granted by an act of Congress or by executive order for any purpose of this chapter.



89215

(f) To accept any gift, donation, grant, or bequest for any purpose of this chapter.

14985.5. (a) The commission may recommend, develop, prepare, or coordinate materials, projects, or other activities, as appropriate, relating to any subject within its jurisdiction.

(b) The commission shall provide, within its resources, information regarding any of the following:

(1) Preventing or minimizing problems of compliance by California businesses by providing educational services, including outreach efforts, and by preparing and hosting on its Internet Web site a Guide to Compliance with State Laws and Regulations Regarding Disability Access Requirements.

(2) Recommending programs to enable persons with disabilities to obtain full and equal access to public facilities.

(3) Providing information as requested by the Legislature on disability access issues and compliance.

14985.6. (a) A priority of the commission shall be the development and dissemination of educational materials and information to promote and facilitate disability access compliance.

(b) The commission shall work with other state agencies, including the Division of the State Architect and the Department of Rehabilitation, to develop educational materials and information for use by businesses to understand its obligations to provide disability access and to facilitate compliance with construction-related accessibility standards.



170969689215BILL

(c) The commission shall develop and make available on its Internet Web site, or make available on its Internet Web site if developed by another governmental agency, including Americans with Disabilities Act centers, toolkits or educational modules to assist a California business to understand its obligations under the law and to facilitate compliance with respect to the top 10 alleged construction-related violations, by type, as specified in subdivision (a) of Section 14985.8. Upon completion of this requirement, the commission shall develop and make available on its Internet Web site, or work with another agency to develop, other toolkits or educational modules that would educate businesses of the accessibility requirements and to facilitate compliance with that requirement.

(d) The commission shall post the following on its Internet Web site:

(1) Educational materials and information that will assist building owners, tenants, building officials, and building inspectors to understand the disability accessibility requirements and to facilitate compliance with disability access laws. The commission shall at least annually review the educational materials and information on disability access requirements and compliance available on the Internet Web site of other local, state, or federal agencies, including Americans with Disabilities Act centers, to augment the educational materials and information developed by the commission.

(2) A link to the Internet Web site of the Division of the State Architect's certified access specialist (CASp) program to assist building owners and tenants in locating or hiring a CASp.

(e) The commission shall, to the extent feasible, coordinate with other state agencies and local building departments to ensure that information provided to the





public on disability access requirements is uniform and complete, and make its educational materials and information available to those agencies and departments.

14985.7. (a) On or before April 15, 2013, the commission shall report to the Legislature, and to the Chairs of the Senate and Assembly Committees on Judiciary, of its activities and efforts since the commission was established to implement the predecessors of Sections 14985.5 and 14985.6, including the provisions that were law prior to amendment or repeal in the 2011–12 Regular Session. Commencing in 2014, and notwithstanding Section 10231.5, the commission shall report on or before January 31 and annually thereafter to the Legislature, and to the Chairs of the Senate and Assembly Committees on Judiciary, of its ongoing efforts to implement Sections 14985.5 and 14985.6, as amended in the 2011–12 Regular Session.

(b) A report to be submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795.

14985.8. The commission shall compile the following data with respect to any demand letter or complaint sent to the commission pursuant to Section 55.32 of the Civil Code and post the information on its Internet Web site, pursuant to the following:

(a) The commission shall identify the various types of construction-related physical access violations alleged in the demand letters and in the complaints, respectively, and shall tabulate the number of claims alleged for each type of violation in the demand letters and complaints, respectively. For purposes of this subdivision, any demand for money letters shall be grouped as demand letters.

(b) Periodically, but not less than every six months beginning July 31, 2013, the commission shall post on its Internet Web site a list, by type, of the 10 most frequent



types of accessibility violations alleged in the demand letters and in the complaints, respectively, and the numbers of alleged violations for each listed type of violation for the prior two quarters.

(c) The commission shall, on a quarterly basis, identify and tabulate the number of demand letters and complaints received by the commission. The commission shall further ascertain whether a complaint was filed in state or federal court and tabulate the number of complaints filed in state or federal court, respectively. This data shall be posted on the commission's Internet Web site periodically, but not less than every six months beginning July 31, 2013.

(d) Commencing in 2014, and notwithstanding Section 10231.5, the commission shall make an annual report to the Legislature and the Chairs of the Senate and Assembly Committees on Judiciary by January 31 of each year of the tabulated data for the preceding calendar year as set forth in subdivisions (a) to (c), inclusive. A report to be submitted pursuant to this subdivision shall be submitted in compliance with Section 9795.

14985.9. With respect to its duties, the commission shall be an advisory commission only, and there shall be no right or obligation on the part of the state to implement the findings of the commission without further legislation that specifically authorizes that the evaluations, determinations, and findings of the commission be implemented.

14985.10. The commission shall hire staff or contract for those experts or technical and professional services that may be required for the completion of any task authorized or study required by this chapter. Staff hired pursuant to this section shall



be hired in compliance with the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2). Contracts awarded pursuant to this section shall be in compliance with Section 19130. The commission is expressly encouraged and authorized to seek the technical and legal assistance of other state agencies and departments in fulfilling its statutory responsibilities.

14985.11. This chapter shall not be implemented, and shall not remain operative, unless funds are appropriated for that purpose by the Legislature in the annual Budget Act or another statute.



## LEGISLATIVE COUNSEL'S DIGEST

Bill No.

as introduced, \_\_\_\_\_.

General Subject: Department of General Services: California Commission on Disability Access.

Existing law establishes the California Commission on Disability Access for purposes of developing recommendations to enable persons with disabilities to exercise their right to full and equal access to public facilities and facilitating business compliance with applicable state and federal laws and regulations. Existing law sets forth the powers and duties of the commission, including developing educational materials and information for businesses, building owners, tenants, and building officials, posting that information on the commission's Internet Web site, and coordinating with other state agencies and local building departments to ensure that information provided to the public on disability access requirements is uniform and complete. Under existing law, the commission is created as an independent entity within state government.



89215

02/13/17 08:18 PM  
RN 17 09696 PAGE 2

This bill, beginning July 1, 2017, would place the commission within the Department of General Services.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.



17096968215BILL