

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: May 28, 2009
POSITION: Oppose

BILL NUMBER: SB 250
AUTHOR: D. Florez

BILL SUMMARY: Dogs and Cats: Spaying and Neutering

This bill would make it unlawful to own an unsterilized dog or cat unless specified conditions are met. The bill would require the sterilization of a dog upon the first violation of one of six specified infractions, with one of the six infractions being failure to possess an unaltered dog license. The bill would require sterilization of an impounded unaltered dog and sterilization of a cat found to be roaming at large. It would require owners/custodians of an impounded unsterilized dog or an impounded cat to comply with sterilization requirements, impoundment procedures, and to pay any associated costs, fees or fines.

FISCAL SUMMARY

This bill would result in a substantial increase to the General Fund cost of the Animal Adoption mandate which requires local entities to retain impounded animals for up to six days. Currently more than \$24 million is expended annually for reimbursement to local government shelters for extended stay costs for impounded animals. The Animal Adoption mandate has been proposed for a one-year suspension in 2009-10. However, the requirements in this bill would likely cause an increase in abandoned or surrendered dogs and cats, resulting in increased ongoing mandate costs to the state beginning in 2010-11.

By requiring local agencies to 1) utilize existing procedures or establish new procedures for unaltered dog license denials and appeals and 2) receive notification of ownership transfer of an unsterilized cat, this bill could create a new reimbursable state-mandated local program. The cost of this mandate is unknown; however, the cost could be partially offset by the fees authorized by this bill for unaltered dog licensing procedures. We note that the level of the dog licensing fees is unspecified, but, if set relatively high, it could potentially contribute to more dogs being abandoned or surrendered eventually, adding to the cost the Animal Adoption mandate.

Because fines for owning an unsterilized dog or cat would only be assessed if there is a concurrent citation for another violation, this bill would also limit local agencies' ability to collect additional revenue to offset new costs associated with enforcing the bill's new provisions.

SUMMARY OF CHANGES

Amendments to this bill since our analysis of the May 5, 2009 version include the following significant amendments which do not change our position:

- Specifies that an unaltered dog license may be obtained pursuant to any applicable city, city and county, or county ordinance if provided for by that jurisdiction.
Provides that a licensing agency shall use its existing procedures or may establish procedures for the denial or revocation of an unaltered dog license.
Authorizes a licensing agency to assess a fee for the procedures associated with the issuance, denial, or revocation of an unaltered dog license.
Removes the paragraph stating that if the Commission on State Mandates determines this measure to contain other state-mandated costs, reimbursements shall be made, as specified.

Analyst/Principal Date Program Budget Manager Date
(0222) R. Baker Todd Jerue

Department Deputy Director Date

Governor's Office: By: Date: Position Approved
Position Disapproved

BILL ANALYSIS Form DF-43 (Rev 03/95 Buff)

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COMMENTS

The Department of Finance is opposed to this measure because: it would result in increased General Fund costs; a bill is not necessary since local entities currently have local authority to implement provisions of this bill; by requiring sterilization as the only solution to pet overpopulation, this bill could result in significant adverse impacts to California's businesses and tourism economy; and, finally, the provisions of the bill will likely cause decreased dog and cat license compliance and result in decreased local revenues for animal control services.

This bill would result in increased costs for an existing state-mandated local program, and would likely create a new state mandated local program, resulting in increased General Fund costs. While the existing mandate is proposed for a one-year suspension in 2009-10, the increased costs would be incurred in 2010-11 and would be ongoing.

This bill is not necessary because local entities currently have authority to manage their animal control services programs, including the establishment of mandatory spay and neuter provisions and licensing options.

BILL ANALYSIS

Existing law requires fines for owners of unsterilized dogs and cats that are impounded as follows:

- First occurrence: \$35
- Second occurrence: \$50
- Third and subsequent occurrences: \$100

Specifically, this bill would:

- Require an owner or custodian of an unsterilized dog to have the dog sterilized at six months of age, provide a license of sterility, or obtain an unaltered dog license, as specified.
- Establish criteria by which an unaltered dog license can be denied or revoked and the appellate process thereof.
- Require an owner or custodian who offers any unsterilized dog for sale, trade, or adoption at the age of four months or older to provide an unaltered dog license as well as provide that the ownership document include the unaltered dog's license number and any existing microchip number.
- Require an owner or custodian of an unsterilized cat to have the cat sterilized.
- Require an owner or custodian who offers any unsterilized cat for sale, trade, or adoption to notify the licensing agency, if applicable, of the name and address of the transferee within ten days after transfer and provide that the ownership transfer document include any existing microchip number.
- Authorize any penalty to be imposed upon an owner or custodian of an unsterilized dog for violating the bill's requirements only if the owner or custodian is concurrently cited for another violation under state or local law pertaining to the obligations of a person owning or possessing a dog, as specified, and require that the dog be sterilized.
- Require an owner or custodian of an impounded, unlicensed, and unsterilized dog or cat to provide written proof of the animal's sterilization, or have the animal sterilized.
- Require an owner or custodian of an unsterilized dog or cat be held responsible for impoundment costs, which if not paid, would require the animal to be abandoned to the licensing agency.

This bill would preclude local animal shelters or other agencies that impound animals from receiving fines for each additional "occurrence" because upon the first occurrence for dogs and cats, the animal must be sterilized and no additional fines may be charged. These funds are expended for the purpose of humane education and programs for low cost spaying and neutering of dogs. Reducing funding for these programs is counterintuitive to the purpose of this bill.

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This bill would require owners and custodians of dogs and cats to "comply with impoundment procedures." While this language is vague and unclear, the most probable outcome is that owners and custodians of dogs and cats will be forced to either pay for the cost of the sterilization procedure or abandon the animal to the licensing agency.

This bill would add the term "custodian" to the Food and Agricultural Code, which would have far-reaching implications. Specifically, the term "custodian" may reduce the legal status and value of dogs and cats and restrict the rights of owners, veterinarians, and government agencies to protect and care for animals. The term "custodian" would also discourage volunteers from participating in trap/neuter/release programs for feral cats, also resulting in increased rates of impounded cats.

This bill would require sterilization of dogs or cats that "roam at large." It is unclear what constitutes "roaming at large" and therefore such lack of definition could lead to numerous complications relating to enforcement, licensing, and license appeals of unsterilized dogs.

This bill does not specify criteria or conditions for obtaining an unaltered dog license. With no criteria or conditions regarding eligibility, enforcement, or appeals, it is unclear whether an owner or guardian would have a real choice in keeping a currently licensed dog intact. As noted by the California Department of Food and Agriculture (CDFA), if there are significant barriers to acquiring an unaltered license, this bill could potentially remove the owner's right to choose whether to subject their dog to anesthesia and surgery, both of which carry health risks. Local implementation would most probably result in inconsistencies statewide of criteria for an unaltered dog license, including eligibility, enforcement, and appeals. Furthermore, there is no guarantee that an unaltered dog license would even be offered by the responsible jurisdiction where an owner lives or that a full and fair hearing process would be provided.

Because jurisdictions are not required to offer an unaltered dog license, the types of dog licenses offered and the policies could vary across jurisdictions. A person considered ineligible for an unaltered dog license in one county could obtain one from another county. Some counties allow veterinarians to issue dog licenses. CDFA points out that for those veterinarians whose practice involves clients from various jurisdictions, proving and/or tracking where an owner lives within a jurisdiction before issuing a license could be a challenge and potentially a liability for the veterinarian. Furthermore, different licensing policies could influence the choice of location of future home owners and potentially drive the relocation of homes to other states.

This bill would only exempt hunting dogs, as specified, from the sterilization requirement. It does not exclude other working or herding breeds. The CDFA notes that if this exemption is due to acknowledgement that the more aggressive nature of an intact animal benefits the animal's hunting ability, then this should also be considered for other classes of dogs. CDFA also notes that breeds of livestock working dogs and livestock guardian dogs are usually judged by performance rather than physical appearance for breeding stock selection and may require several years of age and training before they can be fully evaluated for breeding purposes. As a result, this bill would negatively impact dogs used in agriculture and the ability to breed dogs for use in agriculture. Service dogs that work off lead, such as search and rescue dogs, would also be subject to sterilization requirements. Not exempting specific types of dogs from sterilization could subject the state to litigation.

Also, this bill would require notification of ownership transfer for unsterilized cats, but it is unclear what licensing agencies are to do with the notifications, other than receive the notifications. There is no funding mechanism specified for local entities to track unsterilized cats which are reported. Similarly, this bill would specify the collection of fines; however, it does not specify which actions or inactions would result in a fine and the amount of the fine.

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This bill is not necessary because local entities currently have authority to manage their animal control services programs, including the establishment of mandatory spay and neuter provisions and licensing options. Current law allows, but does not require, local entities to offer unaltered dog licenses for increased fees. Therefore, there is no need to establish a statewide mandated program, exposing the General Fund to increased costs. We note that this bill is intended to establish a statewide program; however since the bill does not include specific criteria for its newly required procedures and processes, it would instead result in inconsistencies among local entities.

While the correlation between spay and neuter programs and reducing pet overpopulation is clear, controversy remains as to the success of mandatory spay and neuter provisions at the local government level. According to the National Animal Interest Alliance (NAIA), Los Angeles City experienced a 20 percent increase in shelter impounds and a 30 percent increase in shelter euthanasias after passage of a mandatory spay and neuter ordinance. However, Los Angeles City states "statistically no conclusions can be reached on intake or euthanasia trends in the short time of the local ordinance's implementation." NAIA also indicates that in Santa Cruz County, animal control costs doubled after mandatory spay and neuter ordinances were passed.

This bill impacts responsible dog owners who may wish to responsibly breed a litter in California. Local entities are not required to offer unaltered licenses or breeder permits for dogs. If responsible breeders are able to obtain such licenses, the increased cost for such a license or permit has been significant. In Sacramento City the one-year cost for an altered dog license is \$15 versus an unaltered dog license that is \$150. Mandatory spay/neuter laws and increased costs would serve as disincentives for responsible breeders to stay in California. If responsible breeders move out of state, this would negatively impact the participation in dog events in California, further impacting local revenues and sales tax revenues. Should breeders move out of state, the supply of well-bred and healthy puppies would be reduced. The demand could potentially be met with puppies bred under poor conditions, many of which would likely be imported from other states or even countries.

FISCAL ANALYSIS

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Given the current economic recession and increasing house foreclosures, animal surrenders have been already been increasing statewide. Provisions of this bill will further exasperate the increase of homeless dogs and cats, due to the financial inability of owners to pay the specified costs, fees and fines. The new

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costs imposed by the bill include requiring owners of unlicensed dogs to pay to have the dog sterilized – versus the option to pay for a license. Since the cost to obtain an unaltered license can be more than twice the cost of an altered license, even if that option were available, owners may still choose to surrender their animals. The bill references the ability for local entities to increase fees and fines, but history shows that it is more likely that local entities will realize decreased license compliance, resulting in decreased local revenues.

On a statewide economic basis, this bill could potentially have negative impacts on California's economy. This bill makes no exemption for any dog owner who is not a resident of California when in the State temporarily for training, competitions or any other lawful reason, or for military families having dogs/cats and living in California when on assignment. By having no provisions to exempt non-resident or visiting cats or dogs, such a visiting animal would be subject to a citation and the penalty of sterilization, if for no other reason than not having an unaltered license. Such risk exposure could result in owners no longer sending animals to California for training or for competitions such as cat or dog shows. Cat and dog conformation events are held to evaluate breeding stock, yet this bill, in effect, penalizes responsible breeders, and discourages breeding stock to visit or compete in California. The American Kennel Club (AKC), which represents over 4,600 dog clubs nationally including 466 clubs in California, has held one of the premier dog events in the world at the Long Beach Convention Center since 2006. This internationally televised AKC/Eukanuba National Championship generates approximately \$21 million in local revenues annually, according to the Long Beach Area Convention and Visitor's Bureau. The 2008 championship brought approximately 28,000 visitors to California from all 50 states and several foreign countries. According to the AKC, this site was chosen partly because California has always been considered to be a dog-friendly state. The AKC also sanctions thousands of dog events each year that generate major economic benefits to local communities. In 2008, almost 315,000 competitors participated in 1,621 conformation dog shows and events in California. The AKC estimates these dog owners and exhibitors contributed over \$97 million to California's economy.

| Code/Department Agency or Revenue Type | SO | (Fiscal Impact by Fiscal Year) | | | | | | | Fund Code |
|--|----|--------------------------------|----|-----------|--------------------------------|-----------|----|-----------|--------------|
| | LA | (Dollars in Thousands) | | | | | | | |
| | CO | PROP | | | | | | | |
| | RV | 98 | FC | 2009-2010 | FC | 2010-2011 | FC | 2011-2012 | |
| 8885/Comm St Mndt | LA | No | | | ----- See Fiscal Summary ----- | | | | 0001 |