

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: July 14, 2011
POSITION: Neutral

BILL NUMBER: AB 641
AUTHOR: M. Feuer

BILL SUMMARY: Long-Term Health Care Facilities: Civil Penalties

This bill would: (1) eliminate the citation review conference (CRC) process as an option for facilities to appeal noncompliance citations, (2) allow the Department of Public Health (DPH) to recommend that a federal civil money penalty be imposed by the federal Centers for Medicare and Medicaid Services (CMS) when the DPH determines that a long-term health care (LTHC) facility is not in compliance with both state and federal requirements, and (3) repeal the requirement for the DPH to develop recommendations to address a Bureau of State Audits (BSA) review of the citation review and assessment process.

FISCAL SUMMARY

The DPH indicates it would not incur any costs as a result of this bill, and may achieve savings of approximately \$470,000 as a result of the elimination of the CRC. Any potential savings from the removal of CRCs likely would be redirected to other Licensing and Certification (L&C) activities that currently are experiencing backlogs.

COMMENTS

The Department of Finance is neutral with regards to this bill as it would not result in additional state costs, and may result in cost savings.

Current law allows facilities that receive a citation to request an appeal, which could result in a CRC. The purpose of the CRC is to review the processes and procedures the DPH followed in citing and ultimately issuing a citation.

This bill would eliminate the CRC process; however, facilities still would be able to appeal citations through an Administrative Law Judge or Superior Court.

Existing law allows the DPH to assess penalties against LTHC facilities for violation of state laws and regulations and applicable federal law and regulations pertaining to patient care. However, existing law prevents the DPH from recommending that a federal penalty be assessed for a violation to both federal and state requirements when a state citation is issued.

This bill would remove this restriction, thereby allowing the state to recommend further federal action be taken. While the federal government would not be required to act upon the state's recommendation, this flexibility could result in additional penalty revenue.

In June 2010, the BSA issued its report *Department of Public Health: It Reported Inaccurate Financial Information and Can Likely Increase Revenues for the State and Federal Health Facilities Citation Penalties Accounts*. The audit addressed several findings, including that the backlog of CRCs (600 as of February 2010, with penalties totaling nearly \$5 million) was impeding the state's ability to collect penalties, and may "encourage facilities to appeal citations and request a CRC as a way to delay paying their monetary penalties". By eliminating the CRC, the DPH likely would be able to receive penalty revenue in a more

Analyst/Principal (0553) B. Nunes	Date	Assistant Program Budget Manager	Date
--------------------------------------	------	----------------------------------	------

Department Deputy Director	Date
----------------------------	------

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

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

BILL ANALYSIS/ENROLLED BILL REPORT--(CONTINUED)

AUTHOR

AMENDMENT DATE

BILL NUMBER

M. Feuer

July 14, 2011

AB 641

timely fashion, which could allow resources to be redirected to other areas of the L&C Program. This still would provide facilities with other avenues to appeal citations.

Code/Department Agency or Revenue Type	SO		(Fiscal Impact by Fiscal Year)				Fund Code
	LA	CO	(Dollars in Thousands)				
	RV	PROP 98	FC	2011-2012 FC	2012-2013 FC	2013-2014	
1301/Trial Ct Rev	RV	No		----- See Fiscal Analysis -----			0942
4265/PublicHealth	SO	No		----- No/Minor Fiscal Impact -----			0942

<u>Fund Code</u>	<u>Title</u>
0942	Special Deposit Fund