

**DEPARTMENT OF FINANCE BILL ANALYSIS**

**AMENDMENT DATE:** 06/04/2012  
**POSITION:** Neutral, note concerns  
**SPONSOR:** California Optometric Association

**BILL NUMBER:** AB 761  
**AUTHOR:** Hernandez, Roger

**BILL SUMMARY: Optometrists**

This bill would allow licensed optometrists to perform specified clinical laboratory tests or examinations, previously prohibited, if the results of the tests can be lawfully utilized within their practice.

**FISCAL SUMMARY**

The California Department of Consumer Affairs (DCA) indicates that this bill could increase enforcement related costs for the California Board of Optometry, but notes that the increased costs would likely be minor and absorbable from within existing resources.

This bill would result in increased workload and costs to the California Department of Public Health (DPH). This bill would authorize the DPH to charge applicants a fee for registration and licensure to perform specified clinical laboratory tests or examinations. This bill does not provide an appropriation, therefore, any request for additional expenditure authority pursuant to this measure would be subject to review and approval through the annual budget process. See the Fiscal Analysis section of this document for more detail on costs.

**COMMENTS**

The Department of Finance is neutral on this bill that would allow optometrists to perform laboratory tests previously required to be completed by a laboratory director, which may allow for an earlier diagnosis of certain conditions and diseases of the eye, but notes the concern that the revenue generated as a result of this bill would greatly exceed additional costs, which appears to indicate fees should be decreased.

**ANALYSIS**

1. Programmatic Analysis

This bill would allow licensed optometrists to perform specified clinical laboratory tests or examinations, previously prohibited, if the results of the tests can be lawfully utilized within their practice.

Current law:

- Prohibits the performance of a clinical laboratory test or examination classified as waived under the federal Clinical Laboratory Improvement Amendments (CLIA) of 1988 unless the test or examination is performed under the overall operation and administration of a laboratory director, as defined, and is performed by specified persons, including certain health care personnel.

Analyst/Principal (0221) J.Carosone	Date	Program Budget Manager Lisa Ann Mangat	Date
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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**ANALYSIS** (continued)

- Defines waived tests as tests approved by the Food and Drug Administration for home use, tests that are simple and accurate that make the possibility of error negligible, or pose no reasonable risk of harm to the patient if the test is performed incorrectly.
- Authorizes a licensed optometrist certified to use therapeutic pharmaceutical agents to diagnose and treat specified conditions.

This bill would, for the performance of clinical laboratory tests or examinations classified as waived:

- Allow licensed optometrists to utilize specified tests if the results of the tests can be lawfully utilized within their practice.
- Provide that a laboratory director may include a licensed optometrist, serving as the director of a laboratory that performs specified clinical laboratory testing.
- Authorize a licensed optometrist certified to use therapeutic pharmaceutical agents to additionally perform specified clinical laboratory tests or examinations necessary for the diagnosis of conditions and diseases of the eye.

## 2. Fiscal Analysis

The DCA indicates that this bill could increase enforcement related costs for the California Board of Optometry, but notes that the increased costs would likely be minor and absorbable from within existing resources.

The DPH indicates that this bill would require two staff positions at a half-year cost of \$64,000 special fund in 2012-13 and \$124,000 special fund annually thereafter. We note that this measure does not provide funding for the DPH in 2012-13 and the program would begin January 1, 2013. Therefore, the DPH would have to absorb any costs in 2012-13 and would need to submit a Budget Change Proposal in 2013-14 to request additional resources to implement this bill. Any request for additional expenditure authority is subject to review and approval through the annual budget process.

The DPH further indicates that 6,400 optometrists are currently licensed and actively practicing. Assuming all 6,400 optometrists registered and applied for the annual license authorized by this bill, this measure would generate annual revenues of \$2.4 million to be deposited into the Clinical Laboratory Improvement Fund. This annual revenue amount is comprised of the following:

- Registration Application (\$100 per year x 6,400 applicants): \$640,000
- Laboratory License (\$270 per year x 6,400 applicants): \$1,728,000

We note that these revenue estimates assume that 100 percent of all licensed and practicing optometrists would both register and apply for the laboratory license, which seems unlikely for the following reasons:

- Some optometrists would prefer to continue their standard business practice of referring these tests out to an approved laboratory, instead of taking on the additional responsibilities.
- The laboratory license fee would cover multiple optometrists in the same practice.

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**ANALYSIS** (continued)

- An office with multiple optometrists may choose to not register every optometrist in the practice.
- The laboratory license fee covers "moderate" to "high" complexity testing. We would expect some optometrists would prefer to continue their standard business practice of referring these tests out to an approved laboratory, instead of taking on the additional responsibilities.
- Optometrists would also be required to register with the federal government to be waived under the CLIA at a cost of \$250 every two years.

Furthermore, the expenditure projections only account for two staff positions to process the applications and does not address ongoing costs for oversight activities, which the DPH is likely incur.

Code/Department Agency or Revenue Type	(Fiscal Impact by Fiscal Year)							Fund Code	
	SO	LA	(Dollars in Thousands)						
	CO	PROP							
	RV	98	FC	2011-2012	FC	2012-2013	FC	2013-2014	
1110/ConAfr-ReqBd	SO	No		-----	No/Minor	Fiscal Impact	-----		0763
4265/PublicHealth	SO	No	C	0	C	64	C	124	0098
1257/Othr Reg Lic	RV	No	U	0	U	1,184	U	2,368	0098
<u>Fund Code</u>	<u>Title</u>								
0098	Clinical Laboratory Improvement Fund								
0763	Optometry Fund, State								