

Case No. S279137

**IN THE
SUPREME COURT OF CALIFORNIA**

TAMELIN STONE, et al.,

Plaintiffs and Appellants,

v.

ALAMEDA HEALTH SYSTEM,

Defendant and Respondent.

No Fee (Gov. Code, § 6103)

After a Decision by the Court of Appeal,

First Appellate District, Division Five

Case No. A164021

**RESPONDENT'S SUPPLEMENTAL MOTION FOR
JUDICIAL NOTICE;
MEMORANDUM OF POINTS AND AUTHORITIES;
DECLARATION OF RYAN P. MCGINLEY-STEMPEL;
[PROPOSED] ORDER**

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ALAMEDA HEALTH SYSTEM

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SUPPLEMENTAL MOTION FOR JUDICIAL NOTICE

Respondent Alameda Health System (“AHS”) submits this Supplemental Motion for Judicial Notice in support of its Reply Brief on the Merits concurrently filed in the above-captioned appeal.

Under California Rules of Court 8.252(a) and 8.520(g), and Evidence Code sections 452(c) and 459, Respondent hereby moves this Court for an Order to take judicial notice for purposes of this appeal of the following documents, which are attached as Exhibits A through C to the Declaration of Ryan P. McGinley-Stempel filed in support hereof:

- **Exhibit A:** Legislative history materials from Assembly Bill No. 2389 (1983-1984 Reg. Sess.), “An act to amend Sections 226 and 226.2 of the Labor Code, relating to wage payments”:
 - Exhibit A-1: Legis. Counsel’s Dig., Assem. Bill No. 2389 (1983-1984 Reg. Sess.) 4 Stats. 1984, Summary Dig., pp. 167-168.
 - Exhibit A-2: Assem. Com. on Lab. & Emp., 3d reading analysis of Assem. Bill No. 2389 (1983-1984 Reg. Sess.) as amended Feb. 23, 1984.
 - Exhibit A-3: Sen. Amend. to Assem. Bill No. 2389 (1983-1984 Reg. Sess.) June 21, 1984.)
 - Exhibit A-4: Assem. Com. on Lab. & Emp., Rep. on Assem. Bill No. 2389 (1983-1984 Reg. Sess.) as amended Feb. 23, 1984.

- **Exhibit B:** Assem. Com. on Approp., analysis of Sen. Bill No. 1618 (2003-2004 Reg. Sess.) as amended May 20, 2004.)
- **Exhibit C:** Sen. Amend. to Assem. Bill No. 2374 (1995-1996 Reg. Sess.) Feb. 16, 1996.)

Exhibit A (Exhibits A-1, A-2, A-3, and A-4) is relevant to the appeal because it refutes Plaintiffs' claim that AHS is subject to the wage statement law (§ 226). (See Cal. Rules of Court, rule 8.252(a)(2)(A).) Specifically, the documents comprising Exhibit A show that section 226 was originally intended to apply only to private employers and the only obligations in section 226 that apply to public employers are set forth in subdivision (i). Although these documents were not presented to the trial court, they are subject to judicial notice under Evidence Code section 452(c) as "[o]fficial acts of the legislative ... department[] ... of any state of the United States." (Evid. Code, § 452, subd. (c); see also Cal. Rules of Court, rule 8.252(a)(2)(B).) Further, they do not relate to proceedings occurring after the order that is the subject of the appeal. (See Cal. Rules of Court, rule 8.252(a)(2)(D).)

Exhibit B also refutes Plaintiffs' claim that AHS is subject to the wage statement law. (See Cal. Rules of Court, rule 8.252(a)(2)(A).) In particular, Exhibit B demonstrates that apart from subdivision (i), the wage statement law does not apply to public entities, given bill analyses' broad language exempting state and local government entities. Exhibit B was not presented to the trial court but is subject to judicial notice under Evidence

Code section 452(c) as “[o]fficial acts of the legislative ... department[] ... of any state of the United States.” (Evid. Code, § 452, subd. (c); see also Cal. Rules of Court, rule 8.252(a)(2)(B).) Exhibit B does not relate to proceedings occurring after the order that is the subject of the appeal. (See Cal. Rules of Court, rule 8.252(a)(2)(D).)

AHS seeks only conditional judicial notice of Exhibits A and B. As explained in AHS’s reply brief, Plaintiffs’ assertion that AHS is subject to the wage statement law was not raised in their answer to AHS’s petition for review. As such, the issue was not properly presented before the Court and the Court need not address it. (See Cal. Rules of Court, rule 8.516(b)(1); *Scottsdale Ins. Co. v. MV Transportation* (2005) 36 Cal.4th 643, 654, fn. 2.) If the Court wishes to address this claim notwithstanding Plaintiffs’ failure to properly present it, AHS believes the Court should have the relevant legislative history at its disposal. As such, it seeks conditional judicial notice of Exhibits A and B.

Exhibit C is relevant to the appeal because it shows that AHS was created to effectuate the County’s duty to provide medical care for the indigent under the Welfare and Institutions Code section 17000 et seq. (See Cal. Rules of Court, rule 8.252(a)(2)(A).) Furthermore, it rebuts Plaintiffs’ argument that AHS is somehow analogous to the private charter schools in *Wells v. One2One Learning Foundation* (2006) 39 Cal.4th 1164. (See ABOM 23-24, 55-56.) Exhibit C was not presented to the trial court. (Cal. Rules of Court, rule 8.252(a)(2)(B).) However, it is subject to judicial notice under Evidence Code section 452(c) as

“[o]fficial acts of the legislative ... department[] ... of any state of the United States.” (Evid. Code, § 452, subd. (c).) Exhibit C does not relate to proceedings occurring after the order that is the subject of the appeal. (See Cal. Rules of Court, rule 8.252(a)(2)(D).)

This Motion is based on the attached Memorandum of Points and Authorities, true and correct copies of the above documents, which are attached as Exhibits A through C to the Declaration of Ryan P. McGinley-Stempel filed in support thereof, and the accompanying proposed order granting this motion.

Respectfully submitted,

Dated: November 6, 2023 RENNE PUBLIC LAW GROUP

By: 

RYAN P. MCGINLEY-STEMPEL
(SBN 296182)

Attorneys for Defendant and
Respondent
ALAMEDA HEALTH SYSTEM

MEMORANDUM OF POINTS AND AUTHORITIES

Respondent Alameda Health System (“AHS”) submits this Supplemental Motion for Judicial Notice in support of its Reply Brief on the Merits filed concurrently in the above-captioned appeal.

I. Evidence Code Section 459 Sets Forth The Circumstances Under Which Reviewing Courts May Take Judicial Notice.

“[R]eviewing court[s] may take judicial notice of any matter specified in Section 452” of the Evidence Code. (Evid. Code, § 459, subd. (a).) As explained below, Exhibits A through C constitute “[o]fficial acts of the legislative ... departments of ... any state of the United States” under Evidence Code section 452(c). Thus, the Court may take judicial notice of them pursuant to Evidence Code section 459(a).

II. The Documents Attached As Exhibits A Through C Are Judicially Noticeable Under Evidence Code Section 452, Subdivision (c).

Exhibits A (Exhibits A-1, A-2, A-3, and A-4), B, and C constitute “[o]fficial acts of the legislative ... departments of ... any state of the United States.” (Evid. Code, § 452, subd. (c).) As such, judicial notice of these exhibits pursuant to Evidence Code section 459 and rules 8.252(a) and 8.520(g) is proper.

Exhibit A, legislative history materials from Assembly Bill No. 2389, is relevant to the appeal because it refutes Plaintiffs’ claim that AHS is subject to the wage statement law (§ 226). (See Cal. Rules of Court, rule 8.252(a)(2)(A).) Specifically, Exhibit A shows that section 226 was originally intended to apply

only to private employers and the only obligations in section 226 that apply to public employers are set forth in subdivision (i). The documents comprising Exhibit A were not presented to the trial court and do not relate to proceedings occurring after the order that is the subject of the appeal. (See Cal. Rules of Court, rule 8.252(a)(2)(B) & (D).)

Exhibit B, a bill analysis of Senate Bill No. 1618 by the Assembly Committee on Appropriations, is relevant to the appeal because it refutes Plaintiffs' claim that AHS is subject to the wage statement law. (See Cal. Rules of Court, rule 8.252(a)(2)(A).) Specifically, Exhibit B supports AHS's argument that apart from subdivision (i), the wage statement law does not apply to public entities, given bill analyses' broad language exempting state and local government entities. Exhibit B was not presented to the trial court. (See Cal. Rules of Court, rule 8.252(a)(2)(B).) Exhibit B does not relate to proceedings occurring after the order that is the subject of the appeal. (See Cal. Rules of Court, rule 8.252(a)(2)(D).)

Exhibit C, an amendment to Assembly Bill No. 2374, is relevant to the appeal because it shows that AHS was created to effectuate the County's duty to provide medical care for the indigent under the Welfare and Institutions Code section 17000 et seq. (See Cal. Rules of Court, rule 8.252(a)(2)(A).) Furthermore, it rebuts Plaintiffs' argument that AHS is somehow analogous to the private charter schools in *Wells v. One2One Learning Foundation* (2006) 39 Cal.4th 1164. (See ABOM 23-24, 55-56.) Exhibit C was not presented to the trial court. (See Cal.

Rules of Court, rule 8.252(a)(2)(B).) It does not relate to proceedings occurring after the order that is the subject of the appeal. (See Cal. Rules of Court, rule 8.252(a)(2)(D).)

Exhibits A through C are subject to judicial notice under Evidence Code section 452(c). Courts regularly take judicial notice of bill analyses and legislative history generally. (See, e.g., *People v. Nelson* (2011) 200 Cal.App.4th 1083, 1095, fn. 6 [taking judicial notice of Senate Bill Analysis]; *Hoechst Celanese Corp. v. Franchise Tax Bd.* (2001) 25 Cal.4th 508, 519, fn. 5 [same]; *State Farm General Insurance Company v. Oetiker, Inc.* (2020) 58 Cal.App.5th 940, 946, fn. 3 [same].) Indeed, this Court has recognized that “[a] request for judicial notice of published material is unnecessary. Citation to the material is sufficient.” (*Quelimane Co. v. Stewart Title Guaranty Co.* (1998) 19 Cal.4th 26, 46, fn. 9; see also *A.M. v. Superior Court* (2021) 63 Cal.App.5th 343, 354, fn. 8 [same].) Accordingly, Exhibits A through C are judicially noticeable under Evidence Code section 452(c).

III. AHS Seeks Conditional Judicial Notice Of Exhibits A & B And Judicial Notice Of Exhibit C.

AHS seeks conditional judicial notice of Exhibits A and B and judicial notice of Exhibit C. As explained in AHS’s reply brief, Plaintiffs’ assertion that AHS is subject to the wage statement law was not raised in their answer to AHS’s petition for review. Because that issue was not properly presented to the Court, the Court need not address it. (See Cal. Rules of Court, rule 8.516(b)(1) [“The Supreme Court may decide any issues that

are raised or fairly included in the petition or answer.”]; *Scottsdale Ins. Co. v. MV Transportation* (2005) 36 Cal.4th 643, 654, fn. 2 [declining to address issue because “[o]nly Scottsdale sought review in this court. MV neither filed a petition for review nor asserted in its answer to Scottsdale’s petition that, if we granted review on the reimbursement issue raised by Scottsdale, we should also address the duty-to-defend issue”].) If the Court wishes to address this claim notwithstanding Plaintiffs’ failure to properly present it, AHS believes the Court should take judicial notice of Exhibits A and B. The legislative history materials comprising these exhibits support AHS’s argument that the wage statement law does not apply to public entities.

Separately, AHS seeks judicial notice of Exhibit C. That exhibit, which is judicially noticeable under Evidence Code section 452(c), bears on AHS’s relationship with the County and refutes Plaintiffs’ assertion the AHS is analogous to private charter schools.

IV. Conclusion

AHS requests that this Court grant its supplemental motion to judicially notice the attached materials.

Respectfully submitted,

Dated: November 6, 2023 RENNE PUBLIC LAW GROUP

By: 
RYAN P. MCGINLEY-STEMPEL
(SBN 296182)

Attorneys for Defendant and
Respondent
ALAMEDA HEALTH SYSTEM


DECLARATION OF RYAN P. MCGINLEY-STEMPEL

1. I am an attorney in good standing licensed to practice before the Courts of this state. I have personal knowledge of the facts set forth below and would and could testify competently thereto. Attached hereto as Exhibits A through C are true and correct copies of the following:
 - a. Exhibit A: Legislative history materials from Assembly Bill No. 2389 (1983-1984 Reg. Sess.), “An act to amend Sections 226 and 226.2 of the Labor Code, relating to wage payments.”
 - i. Exhibit A-1: Legis. Counsel’s Dig., Assem. Bill No. 2389 (1983-1984 Reg. Sess.) 4 Stats. 1984, Summary Dig., pp. 167-168.
 - ii. Exhibit A-2: Assem. Com. on Lab. & Emp., 3d reading analysis of Assem. Bill No. 2389 (1983-1984 Reg. Sess.) as amended Feb. 23, 1984.
 - iii. Exhibit A-3: Sen. Amend. to Assem. Bill No. 2389 (1983-1984 Reg. Sess.) June 21, 1984.)
 - iv. Exhibit A-4: Assem. Com. on Lab. & Emp., Rep. on Assem. Bill No. 2389 (1983-1984 Reg. Sess.) as amended Feb. 23, 1984.
 - b. Exhibit B: Assem. Com. on Approp., analysis of Sen. Bill No. 1618 (2003-2004 Reg. Sess.) as amended May 20, 2004.)
 - c. Exhibit C: Sen. Amend. to Assem. Bill No. 2374 (1995-1996 Reg. Sess.) Feb. 16, 1996.)

2. Each of these documents is relevant to the appeal for the reasons stated in the concurrently filed Supplemental Motion for Judicial Notice and supporting Memorandum of Points and Authorities.
3. Exhibits A through C were not presented to the trial court. However, they are subject to judicial notice under Evidence Code sections 452(c) and 459.
4. Exhibits A through C do not relate to proceedings occurring after the order that is the subject of this appeal.

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct.

Executed on this, the 6th day of November, 2023, in San Francisco, California.



RYAN P. MCGINLEY-STEMPEL
(SBN 296182)

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EXHIBIT A-1

Volume 4

STATUTES OF CALIFORNIA

AND DIGESTS OF MEASURES

1984

Constitution of 1879 as Amended

**Measures Submitted to Vote of Electors,
Primary Election, June 5, 1984
and General Election, November 6, 1984**

**General Laws, Amendments to the Codes, Resolutions,
and Constitutional Amendments passed by the
California Legislature**

**1983-84 Regular Session
1983-84 Second Extraordinary Session**



Compiled by
BION M. GREGORY
Legislative Counsel

CALIFORNIA LEGISLATURE

1983-84 REGULAR SESSION

1983-84 SECOND EXTRAORDINARY SESSION

SUMMARY DIGEST

of

**Statutes Enacted and Resolutions (Including Proposed
Constitutional Amendments) Adopted in 1984**

and

1979-1984 Statutory Record



DARRYL R. WHITE
Secretary of the Senate

JAMES D. DRISCOLL
Chief Clerk of the Assembly

Compiled by
BION M. GREGORY
Legislative Counsel

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PREFACE

Digests

The Summary Digest consists of a short summary of each law enacted, and of each constitutional amendment, concurrent or joint resolution adopted by the Legislature in 1984. Except for technical corrections indicated by “*” (words stricken out or added), the summary of each measure is identical to the Legislative Counsel’s digest which appeared on the face of the legislative measure when placed on final passage by both houses.

Cross-Reference Tables

The text of the Summary Digest is arranged numerically by chapter number.

Cross-reference tables are arranged numerically by bill or resolution number and indicate the chapter number of each.

Index

A subject matter index to all measures, including constitutional amendments and resolutions, is included.

Statutory Record

This edition of the Summary Digest includes a cumulative statutory record for 1979–1984, followed by a list of concurrent resolutions adopted in 1979–1984, which affect concurrent resolutions adopted in prior years, and lists of new general laws passed in the years 1979–1984 which do not specifically amend, add to, or repeal any existing code or general law. Cumulative statutory records for 10-year periods, 1969–1978, 1959–1968 and 1949–1958, and for the 16-year period, 1933–1948, are published in separate volumes, which supplement the original statutory record, 1850–1932, published in 1933.

ABBREVIATIONS

AB	Assembly Bill
ACA.....	Assembly Constitutional Amendment
ACR.....	Assembly Concurrent Resolution
AJR	Assembly Joint Resolution
SB.....	Senate Bill
SCA	Senate Constitutional Amendment
SCR	Senate Concurrent Resolution
SJR	Senate Joint Resolution
Sec	Section
Art.	Article
Ch.. ...	Chapter
Res Ch ..	Resolution Chapter
Pt. ...	Part
Div	Division
Stats	Statutes

EFFECTIVE DATES

Regular Session

The 1983–84 Regular Session reconvened on January 3, 1984, and adjourned sine die on November 30, 1984. Statutes enacted in 1984, other than those taking immediate effect, will become effective January 1, 1985. In absence of other considerations, the provisions of a statute become operative on the date it takes effect. Digests indicate statutes taking immediate effect.

An urgency statute and a statute calling an election, providing for a tax levy, or making an appropriation for the usual current expenses of the state may take effect immediately. Such a statute becomes *effective* on the date it is filed with the Secretary of State.

However, any statute may, by its own terms, delay the *operation* of its provisions until the happening of some contingency, until a specified time, or until a vote of the electors at a statewide election. Also, a later statute or a general provision in a particular code may delay the operation of a statute to a time after its effective date.

The effective date of a joint or concurrent resolution is the date it is filed with the Secretary of State.

A constitutional amendment proposed by the Legislature and adopted by the people takes effect the day after the election unless the measure provides otherwise.

Extraordinary Session

An urgency statute enacted at a special session of the Legislature takes effect immediately, as outlined above, and the same rules apply with respect to a delayed *operative* date. A nonurgency statute takes effect on the 91st day after adjournment of the special session at which the bill was passed.

The 1983–84 Second Extraordinary Session convened on January 19, 1984, and adjourned sine die on February 17, 1984. The 91st day after adjournment is May 18, 1984.

DIGESTS OF STATUTES

ENACTED IN 1984

1983-84 REGULAR SESSION

Public Instruction to compute an allowable growth factor for each school district, county office, or joint powers agency operating regional occupational centers and programs according to a specified formula.

This bill would revise the formula for the calculation of the growth factor for regional occupational centers and programs.

(24) This bill would make other technical, nonsubstantive amendments

(25) This bill would require the Legislative Analyst, on or before January 1, 1985, to conduct a study relative to the distribution of Urban Impact Aid, as prescribed.

(26) This bill would require the Superintendent of Public Instruction to calculate for the 1983-84 fiscal year apportionments to county superintendents of schools in accordance with the requirements of specified provisions of current law, as amended by this bill.

(27) This bill would state the legislative intent that the revisions to the allocation of funds apportioned to regional occupational centers and programs made pursuant to this bill shall be applied retroactively for the 1983-84 fiscal year.

(28) This bill would take effect immediately as an urgency statute.

Ch. 483 (AB 2480) Sher. Schools: violence against persons.

Existing law provides misdemeanor punishment for assault or battery generally, but an increased penalty for assault, and alternative felony-misdemeanor punishment for battery, is authorized when the victim is, among others, a teacher, student teacher, school security officer, or school administrator engaged in the performance of his or her duties and the offense occurs on school property.

This bill would instead provide increased penalties when the victim is any person on school property [, and increase the fines authorized for those offenses]*.

Increased punishment is also provided under existing law when an assault or battery is against specified transportation workers

The bill would increase the fines authorized for assault or battery against those transportation workers and would also apply to schoolbus drivers the same penalties which apply in the case of the other specified transportation workers

The bill would create a state-mandated local program by changing the definition of a crime.

Article XIII B of the California Constitution and Sections 2231 and 2234 of the Revenue and Taxation Code require the state to reimburse local agencies and school districts for certain costs mandated by the state. Other provisions require the Department of Finance to review statutes disclaiming these costs and provide, in certain cases, for making claims to the State Board of Control for reimbursement.

However, this bill would provide that no appropriation is made and no reimbursement is required by this act for a specified reason.

Ch 484 (AB 2438) Condit. Physically handicapped access requirements. parking.

Under existing law, the State Architect is required to adopt building standards for making public buildings accessible to, and usable by, physically handicapped persons

This bill would require these regulations to specify that all parking places reserved for the physically handicapped be identified in the manner prescribed by the Vehicle Code.

Ch. 485 (AB 2379) Sher. Juvenile court law

Existing law provides for the liability of parents of a minor detained pursuant to an order of the juvenile court for the portion of the costs incurred by the county in maintaining such a minor that are equivalent to the reasonable expenditures required of parents pursuant to the legal obligation of parents to support their children, as specified.

This bill would specify that the parental liability for costs of support includes only actual costs incurred by the county for food and food preparation, clothing, personal supplies, and medical expenses, as specified. The bill would state the Legislature's intent that this liability be imposed only on persons with ability to pay

Ch. 486 (AB 2389) Floyd. Wage payments: itemized statements.

Existing law requires every private employer to furnish each of his or her employees, semimonthly or at the time of each payment of wages, an itemized statement in writing

showing specified items.

This bill would require that this itemized statement show, in addition to the items specified, the total hours worked by each employee whose compensation is based on an hourly wage.

This bill would also specify that it does not apply to government agencies.

This bill would become operative on January 1, 1986.

Ch. 487 (SB 1577) Montoya. Freeways: vending within 500 feet.

Existing law prohibits, with specified exceptions, any person from soliciting, displaying, selling or offering to sell, or vending or attempting to vend any merchandise or service while being wholly or partly within a freeway right-of-way. A first offense is an infraction and a second or subsequent offense is a misdemeanor.

This bill would impose a state-mandated local program by creating a new crime by making the same prohibitions and penalties applicable on any roadway or shoulder within 500 feet of a freeway off-ramp or on-ramp. The above penalties would also be applicable to vending or attempting to vend to vehicular traffic on a sidewalk within 500 feet of a freeway off-ramp or on-ramp.

(2) Article XIII B of the California Constitution and Sections 2231 and 2234 of the Revenue and Taxation Code require the state to reimburse local agencies and school districts for certain costs mandated by the state. Other provisions require the Department of Finance to review statutes disclaiming these costs and provide, in certain cases, for making claims to the State Board of Control for reimbursement.

However, this bill would provide that no appropriation is made and no reimbursement is required by this act for a specified reason.

Ch. 488 (SB 1583) Montoya. Vehicles: licenses issued by the California Highway Patrol.

Existing law authorizes the Commissioner of the California Highway Patrol to issue licenses for private ambulances, armored cars, fleet owner inspection and maintenance stations, and for the transportation of hazardous material, including explosives. Under existing law, the term of these licenses is 12 months.

This bill, which would apply only to licenses to haul hazardous materials and other license categories established on or after January 1, 1982, would authorize the commissioner to issue licenses from 6 to 18 months (with prorated fees) for the purpose of staggering license renewals.

Ch. 489 (AB 2843) Isenberg. Community colleges finance.

Existing law requires the books and accounts of a community college district to be annually audited.

This bill would express the Legislature's intent that minor and inadvertent errors in a district's student attendance records shall be resolved in a fair and equitable manner by the Chancellor of the California Community Colleges.

This bill would provide that the apportionment to a community college district for any fiscal year following the fiscal year affected by an audit conducted in the 1980-81 fiscal year or in any fiscal year thereafter, or affected by the district's declaration of a discrepancy in its student attendance report subsequent to the submission of its annual student attendance report, shall not be affected, provided that the district has satisfied certain specified conditions.

This bill would specify that the funds used to meet the costs of implementing this bill for the 1984-85 fiscal year shall be from the appropriations made to Section B of the State School Fund by the Budget Act of 1984.

This bill would provide that any positive adjustment to a district's apportionment resulting from the implementation of this bill shall not affect prior year apportionments to other districts.

Ch. 490 (SB 1481) Vuich. Courts: Fresno and Tulare Counties.

(1) Existing law establishes the number, compensation, and classification of municipal court personnel in Fresno County.

This bill would revise the number, compensation, and classification of municipal court personnel in Fresno County.

EXHIBIT A-2

ASSEMBLY THIRD READING

AB 2389 (Floyd) As Amended: February 23, 1984

ASSEMBLY ACTIONS:

COMMITTEE L. & E. VOTE 11-0 COMMITTEE _____ VOTE _____

Ayes:

Ayes:

Nays:

Nays:

DIGEST

Current law requires employers to semimonthly, or when paying wages, furnish each employee an itemized statement showing:

- 1) Gross wages earned,
- 2) All deductions,
- 3) Net wages earned,
- 4) The inclusive dates of the pay period, and
- 5) The name or social security number of the employee.

An employee suffering injury as a result of an employer's intentional failure to comply with the above requirement is entitled to recover all actual damages or \$100, whichever is greater, plus costs and reasonable attorney's fees.

This bill additionally requires the itemized statement to show the total hours worked by employees whose compensation is measured by time.

FISCAL EFFECT

None

COMMENTS

We are informed this measure is intended to apply only to private sector employment.



EXHIBIT A-3

AMENDED IN SENATE JUNE 21, 1984
 AMENDED IN SENATE MAY 30, 1984
 AMENDED IN ASSEMBLY FEBRUARY 23, 1984

CALIFORNIA LEGISLATURE—1983-84 REGULAR SESSION

ASSEMBLY BILL

No. 2389

Introduced by Assembly Member Floyd

January 13, 1984

An act to amend Sections 226 and 226.2 of the Labor Code, relating to wage payments.

LEGISLATIVE COUNSEL'S DIGEST

AB 2389, as amended, Floyd. Wage payments: itemized statements.

Existing law requires every *private* employer to furnish each of his or her employees, semimonthly or at the time of each payment of wages, an itemized statement in writing showing specified items.

This bill would require that this itemized statement show, in addition to the items specified, the total hours worked by each employee whose compensation is based on an hourly wage.

This bill would also specify that it does not apply to government agencies.

This bill would become operative on January 1, 1986.

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

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

1 SECTION 1. Section 226 of the Labor Code is
 2 amended to read:



1 226. (a) Every employer shall semimonthly, or at the
 2 time of each payment of wages, furnish each of his or her
 3 employees either as a detachable part of the check, draft,
 4 or voucher paying the employee's wages, or separately,
 5 an itemized statement in writing showing: (1) gross
 6 wages earned; (2) total hours worked by each employee
 7 whose compensation is based on an hourly wage; (3) all
 8 deductions; provided, that all deductions made on
 9 written orders of the employee may be aggregated and
 10 shown as one item; (4) net wages earned; (5) the
 11 inclusive dates of the period for which the employee is
 12 paid; (6) the name of the employee or his or her social
 13 security number; and (7) the name and address of the
 14 employer.

15 (b) Any employee suffering injury as a result of a
 16 knowing and intentional failure by an employer to
 17 comply with subdivision (a) shall be entitled to recover
 18 all actual damages or one hundred dollars (\$100),
 19 whichever is greater, plus costs and reasonable attorney
 20 fees.

21 (c) Any employer who knowingly and intentionally
 22 violates the provisions of this section shall be subject to a
 23 fine of one hundred dollars (\$100) for each pay period in
 24 which a violation occurs.

25 (d) *This section shall not apply to the state, or any city,*
 26 *county, city and county, district, or any other*
 27 *governmental entity.*

28 SEC. 2. Section 226.2 of the Labor Code is amended
 29 to read:

30 226.2. Every employer who pays wages in cash shall
 31 semimonthly or at the time of each payment of wages
 32 furnish each employee an itemized statement in writing
 33 showing: (1) all deductions, including, when applicable,
 34 deductions for federal income tax, state income tax,
 35 disability insurance, health and welfare payments, and
 36 any other deductions authorized by the employee; (2)
 37 total hours worked by each employee whose
 38 compensation is based on an hourly wage; (3) the
 39 inclusive dates of the period for which the employee is
 40 paid; (4) the name of the employee or the employee's

1 social security number; and (5) the name of the
 2 employer.

3 The deductions made from cash payments of wages
 4 shall be recorded in ink or other indelible form, properly
 5 dated, showing the month, day, and year, and a copy of
 6 such statement, or a record of the deductions, shall be
 7 kept on file by the employer for at least three years at the
 8 place of employment or at a central location within the
 9 State of California. An employer's records shall be
 10 available for inspection by the employee upon reasonable
 11 request.

12 This section shall not apply to any employer of any
 13 person employed by the owner or occupant of a
 14 residential dwelling whose duties are incidental to the
 15 ownership, maintenance, or use of the dwelling,
 16 including the care and supervision of children, or whose
 17 duties are personal and not in the course of the trade,
 18 business, profession, or occupation of such owner or
 19 occupant.

20 Any employee suffering injury as a result of a knowing
 21 and intentional failure by an employer to comply with
 22 this section shall be entitled to recover all actual damages
 23 or one hundred dollars (\$100), whichever is greater, plus
 24 costs and reasonable attorney fees.

25 *This section shall not apply to the state, or any city,*
 26 *county, city and county, district, or any other*
 27 *governmental entity.*

28 SEC. 3. This act shall become operative on January 1,
 29 1986.

O



EXHIBIT A-4

ASSEMBLY LABOR AND EMPLOYMENT COMMITTEE

BILL NO. AB 2389

ASSEMBLYMAN RICHARD E. FLOYD, CHAIRMAN

HEARING DATE: 3/20/84

AB 2389, Floyd, As Amended 2/23/84

SUBJECT:

This bill would require an employer, when furnishing an employee with an itemized payroll statement, to show the total hours worked if the employee's compensation is measured by time.

DIGEST:

Existing law requires employers to furnish employees who are paid by check with an itemized statement showing, inter alia, gross wages earned, all deductions, net wages and the inclusive dates of the pay period. The purpose of this law is to provide employees with an accurate payroll record. The statement also supplies documentation in order to establish eligibility for unemployment or other employee benefits.

This bill, would require the itemized statement to show the total hours worked if the employee's compensation is measured by time.

FISCAL EFFECT:

None.

STAFF COMMENTS:

This bill results from the interim hearings held by the committee on labor law violations in the construction industry. The hearings revealed that many contractors who are awarded public works contracts do not pay the wages required by the contract. When they are requested to furnish a certified payroll record to the awarding body, they will show the correct hourly wage, but will under-report the total hours worked. Since neither the awarding body nor the Labor Commissioner have the resources to monitor all public works job sites to determine the actual hours worked by all employees, the certified payroll does not furnish an effective means of determining if the contractor is complying with the terms of the contract. By requiring the itemized statement to show the total hours worked, employees will be able to readily determine if the correct hourly wage is being paid and will lessen the likelihood of a contractor under-reporting the total hours worked on the certified payroll record.

LEGISLATIVE INTENT SERVICE (800) 666-1917



Most employers who compensate workers by the hour currently show total hours worked on the itemized statement. Therefore, this measure should not have a significant impact on employers' bookkeeping costs.

CONSULTANT: Stephen Holloway

BILL NO.: AB 2389



EXHIBIT B

CA B. An., S.B. 1618 Assem., 6/30/2004

California Bill Analysis, Assembly Committee, 2003-2004 Regular Session, Senate Bill 1618

June 30, 2004
California Assembly
2003-2004 Regular Session

Date of Hearing: June 30, 2004

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Judy Chu, Chair

SB 1618 (Battin) - As Amended: May 20, 2004

Policy Committee: Labor and Employment

Vote: 8-0

Urgency: No

State Mandated Local Program: Yes

Reimbursable: No

SUMMARY

This bill prohibits employers from providing more than the last four digits of an employee's social security number (SSN) on the itemized statement furnished at the time of payment of wages to an employee. Specifically, this bill:

- 1) Requires that instead of the employee's entire SSN, only its last four digits or less can be shown on the itemized statement, and allows an employee identification number to be used in lieu of the SSN on the itemized statement.
- 2) Requires that any state or local governmental entity, if it furnishes employees with a check, draft, or voucher paying the employee's wages, to use no more than the last four digits of the employee's SSN or to use an employee identification number other than the SSN on that check, draft, or voucher.

FISCAL EFFECT

- 1) The State Controller already complies with the provisions of this bill and thus would incur no additional cost.
- 2) Violations of the bill would constitute a misdemeanor; local enforcement costs not reimbursable.

COMMENTS

1) Background . Current law requires employers to furnish each employee with an itemized statement at the time of each payment of wages that shows among other things, the name and SSN of the employee. A knowing and intentional violation of this provision is a misdemeanor. The state and local government entities are exempt from this requirement.

Unauthorized use of SSNs is the most common way criminals commit identity theft. California is the only state that requires the SSN to be displayed on employee payroll statements.

1) Purpose . This bill prohibits employers from using more than the last four digits of an employee's SSN on the itemized statement that is required to be issued at the time of each payment of wages. This bill does not repeal the existing exemption from wage statement content requirements for governmental agencies, but does restrict governmental agencies from using more than the last four digits of the employee's SSN on any check, draft, or voucher it issues to an employee.

Analysis Prepared by : Stephen Shea / APPR. / (916) 319-2081

CA B. An., S.B. 1618 Assem., 6/30/2004

End of Document

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EXHIBIT C

AMENDED IN SENATE JUNE 24, 1996
AMENDED IN ASSEMBLY MAY 13, 1996
AMENDED IN ASSEMBLY APRIL 15, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 2374

Introduced by Assembly Member Bates

February 16, 1996

An act to add Chapter 5 (commencing with Section 101850) to Part 4 of Division 101 of the Health and Safety Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

AB 2374, as amended, Bates. Alameda County: hospital authority.

Existing law permits the County of Alameda to establish a health authority as a means of establishing the local initiative component of the state-mandated two-plan managed care model for the delivery of Medi-Cal services.

This bill would authorize the Board of Supervisors of the County of Alameda to establish, by ordinance, a hospital authority to manage, administer, ~~or~~ *and* control the Alameda County Medical Center, ~~as deemed appropriate by the board~~. The bill would set forth certain rights and duties, powers, and requirements of a hospital authority established under its provisions.

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

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

SECTION 1. Chapter 5 (commencing with Section 101850) is added to Part 4 of Division 101 of the Health and Safety Code, to read:

CHAPTER 5. ALAMEDA COUNTY MEDICAL CENTER
HOSPITAL AUTHORITY

101850. The Legislature finds and declares the following:

(a) (1) Due to the challenges facing the Alameda County Medical Center arising from changes in the public and private health industries, the Alameda County Board of Supervisors has determined that a transfer of governance of the Alameda County Medical Center to an independent governing body, *a hospital authority*, is needed to improve the efficiency, effectiveness, and economy of the community health services provided at the medical center. The board of supervisors has further determined that the creation of an independent hospital authority strictly and exclusively dedicated to the management, administration, and control of the medical center, *in a manner consistent with the county's obligations under Section 17000 of the Welfare and Institutions Code*, is the best way to fulfill its commitment to the medically indigent, special needs, and general populations of Alameda County. To accomplish this, it is necessary that the board of supervisors be given authority to create a hospital authority. Because there is no general law under which this authority could be formed, the adoption of a special act and the formation of a special authority is required.

(2) The following definitions shall apply for purposes of this section:

(A) "The county" means the County of Alameda.

(B) "Governing board" means the governing body of the ~~health~~ hospital authority.

(C) ~~"Health~~ "Hospital authority" means the separate public agency established by the Board of Supervisors of

1 Alameda County to manage, administer, ~~or~~ and control
2 the Alameda County Medical Center, ~~as deemed~~
3 ~~appropriate by the board of supervisors.~~

4 (D) “Medical center” means the Alameda County
5 Medical Center.

6 (b) The board of supervisors of the county may, by
7 ordinance, establish a hospital authority separate and
8 apart from the county for the purpose of effecting a
9 transfer of the management, administration, ~~or~~ and
10 control of the medical center ~~as deemed appropriate by~~
11 ~~the board of supervisors.~~ A hospital authority established
12 pursuant to this chapter shall be strictly and exclusively
13 dedicated to the management, administration, and
14 control of the medical center within parameters set forth
15 in this chapter, and in the ordinance, bylaws, and
16 contracts adopted by the board of supervisors which shall
17 not be in conflict with this chapter, *Section 1442.5 of this*
18 *code, or Section 17000 of the Welfare and Institutions*
19 *Code.*

20 (c) A hospital authority established pursuant to this
21 chapter shall be governed by a board that is appointed,
22 both initially and continually, by the Board of Supervisors
23 of the County of Alameda. This hospital authority
24 governing board shall reflect both the expertise necessary
25 to maximize the quality and scope of care at the medical
26 center in a fiscally responsible manner and the diverse
27 interest that the medical center serves. The enabling
28 ordinance shall specify the membership of the hospital
29 authority governing board, the qualifications for
30 individual members, the manner of appointment,
31 selection, or removal of governing board members, their
32 terms of office, and all other matters that the board of
33 supervisors deems necessary or convenient for the
34 conduct of the hospital authority’s activities. ~~The~~
35 ~~enabling ordinance shall provide that persons who are~~
36 ~~current providers of care or who are employed by a~~
37 ~~current provider of care doing business in the county and~~
38 ~~persons who are not residents of the county are not~~
39 ~~eligible for service on the governing board.~~

1 (d) The mission of the hospital authority shall be the
2 management, administration, ~~or~~ *and* other control, as
3 determined by the board of supervisors, of the group of
4 public hospitals, clinics, and programs that comprise the
5 medical center, in a manner that ensures appropriate,
6 quality, and cost-effective medical care ~~for medically~~
7 ~~indigent residents of the county~~ as required of counties by
8 Section 17000 of the Welfare and Institutions Code, and,
9 to the extent feasible, ~~the uninsured, the underinsured,~~
10 ~~and other~~ *other special* populations in Alameda County.
11 The mission shall be pursued, to the extent feasible,
12 through primary, secondary, and tertiary care, inpatient
13 and outpatient services, health education, medical
14 research, and promotional health programs.

15 (e) The board of supervisors shall adopt bylaws for the
16 medical center that sets forth those matters, related to the
17 operation of the medical center by the hospital authority,
18 that the board of supervisors deems necessary and
19 appropriate. The bylaws shall become operative upon
20 approval by a majority vote of the board of supervisors.
21 Any changes or amendments to the bylaws shall be by
22 majority vote of the board of supervisors.

23 (f) The hospital authority created and appointed
24 pursuant to this section is a duly constituted governing
25 body within the meaning of Section 1250 and Section
26 70035 of Title 22 of the California Code of Regulations as
27 currently written or subsequently amended.

28 (g) Unless otherwise provided by the board of
29 supervisors by way of resolution, the hospital authority is
30 empowered, or the board of supervisors is empowered on
31 behalf of the hospital authority, to apply as a public
32 agency for one or more licenses for the provision of health
33 care pursuant to statutes and regulations governing
34 licensing as currently written or subsequently amended.

35 (h) In the event of a change of license ownership, the
36 governing body of the hospital authority shall comply
37 with the obligations of governing bodies of general acute
38 care hospitals generally as set forth in Section 70701 of
39 Title 22 of the California Code of Regulations, as currently
40 written or subsequently amended, as well as the terms

1 and conditions of the license. The hospital authority shall
2 be the responsible party with respect to compliance with
3 these obligations, terms, and conditions.

4 (i) (1) Any transfer *by the county to the hospital*
5 *authority* of the administration, management, ~~or~~ and
6 control of the medical center, whether or not the transfer
7 includes the surrendering by the county of the existing
8 general acute care hospital license and corresponding
9 application for a change of ownership of the license, shall
10 not affect the eligibility of the county, or in the case of a
11 change of license ownership, the hospital authority, to do
12 any of the following:

13 (A) Participate in, and receive allocations pursuant to,
14 the California Healthcare for the Indigent Program
15 (CHIP).

16 (B) Receive supplemental reimbursements from the
17 Emergency Services and Supplemental Payments Fund
18 created pursuant to Section 14085.6 of the Welfare and
19 Institutions Code.

20 (C) Receive appropriations from the Medi-Cal
21 Inpatient Payment Adjustment Fund without relieving
22 the county of its obligation to make intergovernmental
23 transfer payments related to the Medi-Cal Inpatient
24 Payment Adjustment Fund pursuant to Section 14163 of
25 the Welfare and Institutions Code.

26 (D) Receive Medi-Cal capital supplements pursuant
27 to Section 14085.5 of the Welfare and Institutions Code.

28 (E) *Receive any other funds that would otherwise be*
29 *available to a county hospital.*

30 (2) Any transfer described in paragraph (1) shall not
31 otherwise disqualify the county, or in the case of a change
32 in license ownership, the hospital authority, from
33 participating in any of the following:

34 (A) Other funding sources either specific to county
35 hospitals or county ambulatory care clinics or for which
36 there are special provisions specific to county hospitals or
37 to county ambulatory care clinics.

38 (B) Funding programs in which the county, on behalf
39 of the medical center and the Alameda County Health
40 Care Services Agency, had participated prior to the

1 creation of the hospital authority, or would otherwise be
2 qualified to participate in had the hospital authority not
3 been created, and administration, management, ~~or~~ and
4 control not been transferred by the county to the hospital
5 authority, pursuant to this chapter.

6 (j) A hospital authority created pursuant to this
7 chapter shall be a ~~public agency and legal entity separate~~
8 ~~and apart from the county and shall file the statement~~
9 ~~required by Section 53051 of the Government Code. The~~
10 ~~hospital authority shall be a~~ government entity separate
11 and apart from the county, and shall not be considered to
12 be an agency, division, ~~department, or instrumentality or~~
13 ~~department~~ of the county. The hospital authority shall not
14 be governed by, nor be subject to, the charter of the
15 county and shall not be subject to policies or operational
16 rules of the county, including, but not limited to, those
17 relating to personnel and procurement. ~~As a legal entity~~
18 ~~separate and apart from the county, the hospital authority~~
19 ~~shall file the statement required by Section 53051 of the~~
20 ~~Government Code.~~

21 (k) (1) Any contract executed by and between the
22 county and the hospital authority shall provide that
23 liabilities or obligations of the hospital authority with
24 respect to its activities pursuant to the contract shall be
25 the liabilities or obligations of the hospital authority, and
26 shall not become the liabilities or obligations of the
27 county.

28 (2) Any liabilities or obligations of the hospital
29 authority with respect to the liquidation or disposition of
30 the hospital authority's assets upon termination of the
31 hospital authority shall not become the liabilities or
32 obligations of the county.

33 (3) Any obligation of the hospital authority, statutory,
34 contractual, or otherwise, shall be the obligation solely of
35 the hospital authority and shall not be the obligation of
36 the county or the state.

37 (l) (1) Notwithstanding ~~the foregoing~~ any other
38 ~~provision of this section~~, any transfer of the
39 administration, management, or assets of the medical
40 center, whether or not accompanied by a change in

1 licensing, shall not relieve the county of the ultimate
2 responsibility for indigent care pursuant to Section 17000
3 of the Welfare and Institutions Code *or any obligation*
4 *pursuant to Section 1442.5 of this code.*

5 (2) Any contract executed by and between the county
6 and the hospital authority shall provide for the
7 indemnification of the county by the hospital authority
8 for liabilities as specifically set forth in the contract,
9 *except that the contract shall include a provision that the*
10 *county shall remain liable for its own negligent acts.*

11 (3) Indemnification by the hospital authority shall not
12 be construed as divesting the county from its ultimate
13 responsibility for compliance with Section 17000 of the
14 Welfare and Institutions Code.

15 (m) Notwithstanding the provisions of this section
16 relating to the obligations and liabilities of the hospital
17 authority, a transfer of control or ownership of the
18 medical center shall confer onto the hospital authority all
19 the rights and duties set forth in state law with respect to
20 hospitals owned or operated by a county.

21 (n) (1) A transfer of the maintenance, operation, and
22 management or ownership of the medical center to the
23 hospital authority shall comply with the provisions of
24 Section 14000.2 of the Welfare and Institutions Code, in
25 that the transfer shall be accompanied by a finding that
26 the community services provided by the medical center
27 could be more efficiently, effectively, or economically
28 provided by the hospital authority than by the county.

29 (2) A transfer of ~~control~~ *maintenance, operation, and*
30 *management* or ownership to the hospital authority may
31 be made with or without the payment of a purchase price
32 by the hospital authority and otherwise upon the terms
33 and conditions that the parties may mutually agree,
34 which terms and conditions shall include those found
35 necessary by the board of supervisors to ensure that the
36 transfer will constitute an ongoing material benefit to the
37 county and its residents.

38 (3) A transfer of the maintenance, operation, and
39 management to the hospital authority shall not be
40 construed as empowering the hospital authority to

1 transfer any ownership interest of the county in the
2 medical center except as otherwise approved by the
3 board of supervisors.

4 (o) The board of supervisors shall retain control over
5 the use of the medical center physical plant and facilities
6 except as otherwise specifically provided for in lawful
7 agreements entered into by the board of supervisors. Any
8 lease agreement or other agreement between the county
9 and the hospital authority shall provide that county
10 premises shall not be sublet without the approval of the
11 board of supervisors.

12 (p) The statutory authority of a board of supervisors to
13 prescribe rules that authorize a county hospital to
14 integrate its services with those of other hospitals into a
15 system of community service that offers free choice of
16 hospitals to those requiring hospital care, as set forth in
17 Section 14000.2 of the Welfare and Institutions Code, shall
18 apply to the hospital authority upon a transfer of ~~control~~
19 *maintenance, operation, and management* or ownership
20 of the medical center by the county to the hospital
21 authority.

22 (q) The hospital authority shall have the power to
23 acquire and possess real or personal property and may
24 dispose of real or personal property other than that
25 owned by the county, as may be necessary for the
26 performance of its functions. The hospital authority shall
27 have the power to sue or be sued, to employ personnel,
28 and to contract for services required to meet its
29 obligations.

30 (r) Any agreement between the county and the
31 hospital authority shall provide that all existing services
32 provided by the medical center continue to be provided
33 to the county through the medical center subject to the
34 ~~availability of funds and~~ policy of the county *and*
35 *consistent with the county's obligations under Section*
36 *17000 of the Welfare and Institutions Code.*

37 (s) A hospital authority to which the ~~administration,~~
38 ~~management, or control~~ *maintenance, operation, and*
39 *management or ownership* of the medical center is
40 transferred shall be a "district" within the meaning set

1 forth in the County Employees Retirement Law of 1937
2 (Chapter 3 (commencing with Section 31450) of Part 3 of
3 Division 4 of Title 3 of the Government Code).

4 ~~Therefore, employees~~ *Employees* of a hospital authority
5 are eligible to participate in the County Employees
6 Retirement System to the extent permitted by law.

7 (t) Members of the governing board of the hospital
8 authority shall not be vicariously liable for injuries caused
9 by the act or omission of the hospital authority ~~or advisory~~
10 ~~body~~ to the extent that protection applies to members of
11 governing boards of local public entities generally under
12 Section 820.9 of the Government Code.

13 (u) The hospital authority shall be a public agency
14 subject to the Myers-Milias-Brown Act (Chapter 10
15 (commencing with Section 3500) of Division 4 of Title 1
16 of the Government Code).

17 (v) Any transfer of functions from county *employee*
18 classifications to a hospital authority established pursuant
19 to this section shall result in the recognition by the
20 hospital authority of the employee organization that
21 represented the classifications performing those
22 functions at the time of the transfer.

23 (w) (1) In exercising its powers to employ personnel,
24 as set forth in subdivision (p), the hospital authority shall
25 implement, and the board of supervisors shall adopt, a
26 personnel transition plan. The personnel transition plan
27 shall require all of the following:

28 (A) Ongoing communications to employees and
29 recognized employee organizations regarding the
30 impact of the transition on existing medical center
31 employees and *employee* classifications.

32 (B) Meeting and conferring on all of the following
33 issues:

34 (i) The timeframe for which the transfer of personnel
35 shall occur. The timeframe shall be subject to
36 modification by the board of supervisors as appropriate,
37 but in no event shall it exceed one year from the effective
38 date of transfer of governance from the board of
39 supervisors to the hospital authority.

1 (ii) A specified period of time during which employees
2 of the county impacted by the transfer of governance
3 may elect to be appointed to vacant positions with the
4 Alameda County Health Care Services Agency for which
5 they have tenure.

6 (iii) A specified period of time during which
7 employees of the county impacted by the transfer of
8 governance may elect to be considered for reinstatement
9 into positions with the county for which they are qualified
10 and eligible.

11 (iv) Compensation for vacation leave and
12 compensatory leave accrued while employed with the
13 county in a manner that grants affected employees the
14 option of either transferring balances or receiving
15 compensation to the degree permitted employees laid off
16 from service with the county.

17 (v) A transfer of sick leave accrued while employed
18 with the county to hospital authority employment.

19 (vi) The recognition by the hospital authority of
20 service with the county in determining the rate at which
21 vacation accrues.

22 (vii) The possible preservation of seniority, pensions,
23 health benefits, and other applicable accrued benefits of
24 employees of the county impacted by the transfer of
25 governance.

26 (2) Nothing in this subdivision shall be construed as
27 prohibiting the hospital authority from determining the
28 number of employees, the number of full-time equivalent
29 positions, the job descriptions, and the nature and extent
30 of classified employment positions.

31 (3) Employees of the hospital authority are public
32 employees for purposes of Division 3.6 (commencing
33 with Section 810) of Title 1 of the Government Code
34 relating to claims and actions against public entities and
35 public employees.

36 (x) Any hospital authority ~~to which this section applies~~
37 *created pursuant to this section* shall be bound by the
38 terms of the memorandum of understanding executed by
39 and between the county and health care and
40 management employee organizations that is in effect as

1 of the date this legislation becomes operative in the
2 county. Upon the expiration of the memorandum of
3 understanding, the hospital authority shall *have sole*
4 *authority to* negotiate subsequent memorandums of
5 understanding with appropriate employee organizations.
6 *Subsequent memorandums of understanding shall be*
7 *approved by the hospital authority.*

8 (y) The hospital authority created pursuant to this
9 section may borrow from the county and the county may
10 lend the hospital authority funds or issue revenue
11 anticipation notes to obtain those funds necessary to
12 ~~commence operations~~ *operate the medical center and*
13 *otherwise provide medical services.*

14 (z) The hospital authority shall be subject to state and
15 federal taxation laws that are applicable to counties
16 generally.

17 (aa) The hospital authority, the county, or both, may
18 engage in marketing, advertising, and promotion of the
19 medical and health care services made available to the
20 community at the medical center.

21 (bb) The hospital authority shall not be a “person”
22 subject to suit under the Cartwright Act (Chapter 2
23 (commencing with Section 16700) of Part 2 of Division 7
24 of the Business and Professions Code).

25 (cc) Notwithstanding Article 4.7 (commencing with
26 Section 1125) of Chapter 1 of Division 4 of Title 1 of the
27 Government Code related to incompatible activities, no
28 ~~member of the governing board, no officer, and no~~
29 member of the hospital authority administrative staff
30 shall be considered to be engaged in activities
31 inconsistent and incompatible with his or her duties as a
32 ~~governing board member, officer, or~~ staff person as a
33 result of employment or affiliation with the county ~~unless~~
34 ~~the employment or affiliation is with the medical center~~
35 ~~or a health provider or facility operated by the county..~~

36 (dd) (1) The hospital authority may use a
37 computerized management information system in
38 connection with the administration of the medical center.

39 (2) Information maintained in the management
40 information system or in other filing and records

1 maintenance systems that is confidential and protected
2 by law shall not be disclosed except as provided by law.

3 (3) The records of the hospital authority, whether
4 paper records, records maintained in the management
5 information system, or records in any other form, that
6 relate to trade secrets or to payment rates or the
7 determination thereof, or which relate to contract
8 negotiations with providers of health care, shall not be
9 subject to disclosure pursuant to the California Public
10 Records Act (Chapter 5 (commencing with Section 6250)
11 of Division 7 of Title 1 of the Government Code). The
12 transmission of the records, or the information contained
13 therein in an alternative form, to the board of supervisors
14 shall not constitute a waiver of exemption from
15 disclosure, and the records and information once
16 transmitted shall be subject to this same exemption. The
17 information, if compelled pursuant to an order of a court
18 of competent jurisdiction or administrative body in a
19 manner permitted by law, shall be limited to in-camera
20 review, and shall not be shared with the parties to the
21 proceeding.

22 (ee) (1) Notwithstanding any other law, the
23 governing board may order that a meeting held solely for
24 the purpose of discussion or taking action on hospital
25 authority trade secrets, ~~which has the same meaning as~~
26 ~~“health care facility trade secrets” as defined in~~
27 ~~subdivision (e) of Section 32106,~~ shall be held in closed
28 session. The requirements of making a public report of
29 actions taken in closed session and the vote or abstention
30 of every member present may be limited to a brief
31 general description devoid of the information
32 constituting the trade secret.

33 (2) The governing board may delete the portion or
34 portions containing trade secrets from any documents
35 that were finally approved in the closed session that are
36 provided to persons who have made the timely or
37 standing request.

38 (3) Nothing in this section shall be construed as
39 preventing the governing board from meeting in closed
40 session as otherwise provided by law.

1 (ff) Open sessions of the hospital authority shall
2 constitute official proceedings authorized by law within
3 the meaning of Section 47 of the Civil Code. The
4 privileges set forth in that section with respect to official
5 proceedings shall apply to open sessions of the hospital
6 authority.

7 (gg) The hospital authority shall be a public agency for
8 purposes of eligibility with respect to grants and other
9 funding and loan guarantee programs. Contributions to
10 the hospital authority shall be tax deductible to the extent
11 permitted by state and federal law. Nonproprietary
12 income of the hospital authority shall be exempt from
13 state income taxation.

14 (hh) Contracts by and between the hospital authority
15 and the state and contracts by and between the hospital
16 authority and providers of health care, goods, or services
17 may be let on a nonbid basis and shall be exempt from
18 Chapter 2 (commencing with Section 10290) of Part 2 of
19 Division 2 of the Public Contract Code.

20 (ii) (1) Provisions of the Evidence Code, the
21 Government Code, including the Public Records Act
22 (Chapter 5 (commencing with Section 6250) of Division
23 7 of Title 1 of the Government Code), the Civil Code, the
24 Business and Professions Code, and other applicable law
25 pertaining to the confidentiality of peer review activities
26 of peer review bodies shall apply to the peer review
27 activities of the hospital authority. Peer review
28 proceedings shall constitute an official proceeding
29 authorized by law within the meaning of Section 47 of the
30 Civil Code and those privileges set forth in that section
31 with respect to official proceedings shall apply to peer
32 review proceedings of the hospital authority. If the
33 hospital authority is required by law or contractual
34 obligation to submit to the state or federal government
35 peer review information or information relevant to the
36 credentialing of a participating provider, that submission
37 shall not constitute a waiver of confidentiality. The laws
38 pertaining to the confidentiality of peer review activities
39 shall be together construed as extending, to the extent

1 permitted by law, the maximum degree of protection of
2 confidentiality.

3 (2) Notwithstanding any other law, Section 1461 shall
4 apply to hearings on the reports of hospital medical audit
5 or quality assurance committees ~~as they relate to network~~
6 ~~providers or applicants.~~

7 (jj) The hospital authority shall carry general liability
8 insurance to the extent sufficient to cover its activities.

9 (kk) In the event the board of supervisors determines
10 that the hospital authority should no longer function for
11 the purposes as set forth in this chapter, the board of
12 supervisors may, by ordinance, terminate the activities of
13 the hospital authority and expire the hospital authority as
14 an entity.

15 (ll) A hospital authority which is created pursuant to
16 this section but which does not obtain the administration,
17 management, ~~or~~ and control of the medical center or
18 which has those duties and responsibilities revoked by the
19 board of supervisors shall not be empowered with the
20 powers enumerated in this section.

21 ~~(mm) The establishment of a hospital authority under~~
22 ~~Article 2.7 (commencing with Section 14087.3) of the~~
23 ~~Welfare and Institutions Code shall be valid as if~~
24 ~~established pursuant to this section and this section shall~~
25 ~~apply to that hospital authority.~~

Case No. S279137

IN THE
SUPREME COURT OF CALIFORNIA

TAMELIN STONE, et al.,

Plaintiffs and Appellants,

v.

ALAMEDA HEALTH SYSTEM,

Defendant and Respondent.

No Fee (Gov. Code, § 6103)

After a Decision by the Court of Appeal,

First Appellate District, Division Five

Case No. A164021

**[PROPOSED] ORDER GRANTING JUDICIAL
NOTICE**

Good cause appearing, Respondent Alameda Health System's Supplemental Motion for Judicial Notice is hereby granted. Judicial notice is taken of the documents attached as Exhibits A through C to the declaration of Ryan P. McGinley-Stempel supporting the supplemental motion for judicial notice filed by Respondent Alameda Health System.

Dated: _____

Chief Justice Guerrero

PROOF OF SERVICE

Case Name: *Stone et al. v. Alameda Health System*
Case No.: S279137

I am not a party to the within action, am over 18 years of age. My business address is 350 Sansome Street, Suite 300, San Francisco, California 94104.

On November 6, 2023, I served the following document(s):
RESPONDENT'S SUPPLEMENTAL MOTION FOR JUDICIAL NOTICE; MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATION OF RYAN P. MCGINLEY-STEMPEL; [PROPOSED] ORDER to each party below via TrueFiling:

David Y. Imai
Law Offices of David Y. Imai
311 Bonita Drive
Aptos, CA 95003
davidimai@sbcglobal.net

Attorneys for Appellants
Tamara Stone, et al.

On November 6, 2023, I also served the **RESPONDENT'S SUPPLEMENTAL MOTION FOR JUDICIAL NOTICE; MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATION OF RYAN P. MCGINLEY-STEMPEL; [PROPOSED] ORDER** on the parties below via U.S. Mail:

First District Court of Appeal	Hon. Noël Wise
Division 5	Alameda County Superior Ct
350 McAllister Street	1221 Oak Street, Floor 3
San Francisco, CA 94102	Oakland, CA 94612

Court of Appeal

Judge of the Superior Court of Alameda County

I declare, under penalty of perjury that the foregoing is true and correct. Executed on November 6, 2023, at San Francisco, California.


Bobette T. Bramer

STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

STATE OF CALIFORNIA
Supreme Court of California

Case Name: **STONE v. ALAMEDA HEALTH
SYSTEM**

Case Number: **S279137**

Lower Court Case Number: **A164021**

1. At the time of service I was at least 18 years of age and not a party to this legal action.
2. My email address used to e-serve: **rmcginleystempel@publiclawgroup.com**
3. I served by email a copy of the following document(s) indicated below:

Title(s) of papers e-served:

Filing Type	Document Title
BRIEF	Defendant and Respondent Alameda Health System's Reply Brief on the Merits
MOTION	Respondent's Supplemental Motion for Judicial Notice; MPA; Declaration of Ryan P. McGinley-Stempel; [Proposed] Order

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This proof of service was automatically created, submitted and signed on my behalf through my agreements with TrueFiling and its contents are true to the best of my information, knowledge, and belief.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

11/6/2023

Date

/s/Ryan McGinley-Stempel

Signature

McGinley-Stempel, Ryan (296182)

Last Name, First Name (PNum)

Renne Public Law Group

Law Firm