

Date of Hearing: April 27, 2022

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 1883 (Quirk-Silva) – As Amended April 18, 2022

SUBJECT: Public restrooms.

SUMMARY: Requires local governments to inventory public restrooms and provide and update this data for a user-friendly database available to the public. Specifically, **this bill:**

- 1) Requires local governments to complete an inventory of accessible, permanent public restrooms owned and maintained by the local government in their jurisdictions, as specified.
- 2) Requires the local governments to provide the inventory to the California Department of Public Health (CDPH) no later than July 1, 2023 and quarterly thereafter.
- 3) Requires CDPH compile the information provided by local governments and develop a user-friendly database available by March 1, 2024 that meets the following requirements:
 - a) The information is searchable by ZIP Code on its public internet website.
 - b) The department updates the database quarterly.
 - c) The website includes a notice that the database may not guarantee hours of operation or accessibility.
- 4) Requires the CDPH to conduct educational outreach to the general public and to homeless service providers that the searchable database is available on its internet website.
- 5) Provides the following definitions for the purposes of this bill:
 - a) “Local government” means a city, including a charter city, a county, a city and county, and a special district.
 - b) “Special district” means a library district or park district, as specified.
- 6) States that the Legislature finds and declares that access to public restrooms addresses a matter of statewide concern rather than a municipal affair, as defined in the California Constitution, and therefore applies to all cities including charter cities.
- 7) Provides that, if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to current law governing state mandated local costs.

FISCAL EFFECT: This bill is keyed fiscal and contains a state-mandated local program.

COMMENTS:

- 1) **Bill Summary.** This bill requires local governments to complete an inventory of restrooms that are available to the public in their respective jurisdictions. Local governments must

provide their findings to CDPH by July 1, 2023 and quarterly thereafter and CDPH must provide information on a publicly available database. The database must include all of the following:

- a) The database is searchable by ZIP code and available by March 1, 2024.
- b) The department shall update the database quarterly.
- c) A notice that the database does not guarantee hours of operation or accessibility.

The bill is sponsored by the author.

- 2) **Author's Statement.** According to the author, "Every person goes to the restroom, it is a biological fact. The Centers for Disease Control has consistently advised that frequent hand washing can keep you healthy and prevent the further spread of COVID-19. These days, even knowing where an accessible public restroom is can be challenging for varied reasons, especially if you are: homeless, on the clock at work, or on a day-trip somewhere new. My bill provides the people of California a tool to locate an accessible public restroom by zip code so that we can all have the opportunity to be healthy, wash our hands, help keep our economy moving and to use the restroom with some dignity and respect."
- 3) **Background.** The COVID-19 pandemic, in addition to rising homelessness in California and nationally, has prompted renewed conversation about the importance of accessibility to public restrooms. According to a PEW research article published July 23, 2020 entitled "The Pandemic Has Closed Public Restrooms, and Many Have Nowhere to Go," though the problem has worsened during the pandemic, American cities have "spent decades divesting from such facilities, leaving private businesses such as Starbucks and McDonalds to pick up the slack."

Taunya Lovell Banks, a professor at the University Of Maryland School Of Law, noted that denying access to public restrooms is essentially "criminalizing having a bladder" because "if you're caught by the police and ticketed, you have to register as a sex offender." She also argues that the impact of a lack of access to public restrooms has disproportionate effects based on class, race, and gender. Businesses are less likely to allow unhoused people to access restrooms, people of color have less access to restrooms, and those with uterus also have more difficulty discreetly urinating.

Based on the 2020 point in time count, California has the largest homeless population in the nation with 161,548 people experiencing homelessness on any given night. Nearly 114,000 of these people are unsheltered, meaning they are living outdoors and not in temporary shelters. In response to COVID-19, the federal government provided funding to immediately house people experiencing homelessness at risk of contracting the virus. Funding was used to create Project Room Key and Project Home Key. Project Room Key reimbursed cities and counties to temporarily house people. Project Home Key provided funding to purchase hotels and motels and master lease housing to house people experiencing homelessness.

- 4) **California Department of Public Health.** The California Department of Public Health (CDPH) mission, according to their website, is to advance the health and well-being of California's diverse people and communities. Their responsibilities are comprehensive and include infectious disease control and prevention, food safety, environmental health,

laboratory services, patient safety, emergency preparedness, chronic disease prevention and health promotion, family health, health equity and vital records and statistics.

- 5) **Barriers and Solutions.** An article published in the North Carolina Law review in January of 2020 (Ron S. Hochbaum, *Bathrooms as a Homeless Rights Issue*, 98 N.C. L. REV. 205 (2020)) asserts that “one of the many barriers to accessibility of public bathrooms for homeless individuals includes the fact that cities do not adequately publicize their availability, often failing to provide a centralized list of bathrooms they maintain.” It also found that cities don’t provide enough public bathrooms for homeless individuals for two reasons. “First, the public bathrooms are not intended to serve the homeless community alone. Rather, they are designed to serve the public at large. Second...the presence or availability of a bathroom does not reflect whether the bathroom is accessible to homeless individuals. The mere existence of a public restroom does not necessarily mean that the restroom is appropriately accessible to people experiencing homelessness.”

The article notes the importance of considering potential barriers that publicly maintained bathrooms may present for homeless individuals, including:

- Not being open twenty-four hours per day and seven days a week;
- Closing during particular seasons;
- Not being clean and sanitary or providing an ability to wash one’s hands;
- Not being strategically located;
- Being located in an area where anti-homeless laws are enforced;
- Being hard to find due to an absence of signage;
- Having physical security on site;
- Being located in a building that requires identification to enter; and,
- Requiring a fee for entry or being located in a facility that requires the same.

The article notes, “These barriers are not an exhaustive list. For homeless individuals reticent to leave their possessions unattended, another potential barrier might include whether the bathroom, or building where the bathroom is located, allows for a homeless person to bring their belongings inside. Yet another barrier could be the amount of foot traffic nearby because homeless individuals with mental health concerns could be uncomfortable near crowds. It is difficult to anticipate what may serve as a barrier for each individual, but the nine potential barriers listed above can at least be ameliorated by a city through strategic bathroom design and implementation...”

The article reports that 98% of Los Angeles’s 264 bathrooms have restricted hours. In San Jose 43% of bathrooms are located in buildings or facilities that required a fee or membership for entry. In 87% of San Francisco’s public bathrooms, the hours are restricted. In San Diego, until recently, almost all of the city’s public bathrooms closed at night. “Before the city’s recent hepatitis A outbreak, the city maintained only two 24-hour public bathrooms. After the outbreak, it began leaving many of its public bathrooms open all day and started installing new ones. As of September 15, 2017, the city was keeping sixty-eight bathrooms open twenty-four hours per day.

The article noted that, “cities’ inability to provide information or records on basic questions of accessibility demonstrates two things. First, it suggests that cities actually know very little and keep poor records about the public bathrooms they maintain. Second, it becomes clear

that the maintenance and operations of public bathrooms do not properly account for the needs of homeless individuals. Accounting for accessibility in addition to availability is critical when assessing cities' provision of public bathrooms for their homeless community. When a city like Los Angeles maintains four overnight bathrooms for its 33,138 homeless residents, it is difficult to view the situation as anything other than governmental malfeasance...

“By failing to provide adequate access to public bathrooms, governments ensure that homeless individuals do so in a manner that threatens their health and the health of others...A recent hepatitis A outbreak underscores the health risks associated with poor access to public bathrooms and proper hygiene. According to the Centers for Disease Control and Prevention (“CDC”), individuals who were most significantly impacted by the outbreak included drug users and homeless people. In addition to experiencing higher rates of drug use, homeless individuals are at a greater risk of contracting hepatitis A because of poor personal hygiene and a lack of sanitation. San Diego was heavily impacted by the hepatitis A outbreak. The city observed 592 cases of the infection resulting in twenty deaths. The outbreak in San Diego and other parts of California was the “largest person-to-person hepatitis A outbreak in the United States since the hepatitis A vaccine became available in 1996.

“To quell the outbreak, the state administered 203,850 vaccinations. Yet the outbreak was avoidable. Government officials knew that in addition to increased health care access and proper vaccination, the spread of hepatitis A could be prevented through access to bathrooms and sensible harm reduction policies, such as the provision of clean needles. San Diego was acutely aware of the need to provide bathrooms to their homeless communities for some time. In 2000, a grand jury issued the first of four reports alerting the city to its shortage of bathrooms for the homeless population. The grand jury report in 2010 explicitly stated that San Diego was at risk of an illness outbreak due to unsanitary conditions among its homeless population. The history of San Diego's failure to install public bathrooms is long. The city responded to the outbreak by providing more access to bathrooms, but there are still too few and, for those impacted by the hepatitis A outbreak, it was too late...

“The most obvious and direct solution to the shortage of accessible public bathrooms would be to increase the supply by building additional bathrooms and eliminating barriers to existing public bathrooms. Public bathrooms are an important part of ensuring that a city is accessible, healthy, and inclusive. The installation of additional public bathrooms would also serve the community at large and not just homeless individuals. Many groups will benefit from increased toilet access, including the elderly, children, individuals with disabilities, pregnant women, people with particular medical conditions, joggers and bikers, and tourists.

“Unfortunately, many cities have come to ignore the benefits, as well as the necessity, of public bathrooms and treat them as expensive nuisances. Government actors and the public at large complain that public bathrooms cannot be maintained properly and are used for criminal activity. The typical response to these challenges is to shutter the bathroom. To homeless advocates, as well others organizing around bathroom accessibility, this response is confounding. The proper response to these challenges is to target the problem, not the service. If a bathroom becomes dirty, it must be cleaned, not closed. If it is misused, then alter the design or provision of the service to protect against the misuse. Many public goods,

such as parks or buses, pose maintenance problems and are misused, but the government does not stop providing the critical service—it simply responds to the problem.

“One city that has had success with responding to the challenges of public bathroom provision and improving availability and accessibility of bathrooms is Portland, Oregon. Through environmental design, Portland created a bathroom that addresses many of the problems other cities cite when refusing to provide bathrooms. The bathroom, called the ‘Portland Loo,’ is designed to be inexpensive, safe, sanitary, and accessible. The Portland Loos are made of graffiti-resistant steel and have sinks outside so individuals are less likely to shower in them. The outside walls feature slats at the top and bottom that allow security or law enforcement to determine if there is more than one person inside. Finally, the bathrooms discourage intravenous drug use by utilizing light blue lighting that makes finding a vein difficult.

“Portland Loos have been so successful in addressing the concerns cities have about maintaining public restrooms that cities around the country and in Canada have purchased and installed them. On the other hand, it should be noted that some of these design features contribute to the stigmatization of the homeless community. While they may be important to ensure the success of public bathrooms, they also highlight the lack of additional critical resources, such as showers or safe injection facilities.

“Some cities have tackled the issues of availability and accessibility at the same time by bringing portable toilets in and out of areas where homeless communities congregate. A number of cities including San Francisco, Los Angeles, Sacramento, Denver, and Miami have implemented the initiatives, typically called ‘Pit Stop.’ The bathrooms, which are hauled in daily or every weekday, are usually maintained by an attendant. Some sites also have receptacles for dog waste and used needles. Additionally, the sites have, at times, been used to conduct outreach and connect homeless individuals with services.” (Citations omitted.)

- 6) **Sacramento Report.** Some cities across the country have worked to expand access to and their inventory of public restrooms in their jurisdiction. In March of 2018, staff at the City of Sacramento produced a report evaluating the public’s access to restrooms and developing a plan to improve access. Staff was requested to identify the current inventory of public restrooms and the service gaps. The report led to the creation of a periodically updated database on the city’s website, which provides an inventory and map of all existing restrooms open to the public in the City’s parks. The initial report also included the location of planned new restrooms, as well as short and long-term recommendations to improve public restroom access. It identified restrooms open 24/7 and those with varying operational hours.
- 7) **Previous Legislation.** AB 1017 (Quirk-Silva) would have created the Right to Restrooms Act of 2021 to require the inventory of public restrooms available to the homeless populations by local governments to be reported to the Office of Emergency Services. This bill was held in the Senate Appropriations Committee.
- 8) **Arguments in Support.** ACLU California Action, in support, writes, “According to the US Department of Housing and Urban Development, an estimated 161,548 people in California are unhoused on any given day. Lack of bathroom access for these individuals is a major public health concern – further exacerbated by the ongoing Covid-19 pandemic and attendant limited

access to restroom and handwashing facilities. A 2017 study of bathroom availability found that the number of toilets available to 1,800 unhoused people in Los Angeles' Skid Row neighborhood at night was nine — fewer than the United Nations High Commissioner for Refugees' standard of one toilet for every 20 people in a refugee camp.

“Public restrooms are essential for public health and human dignity for people who are unhoused. This is especially true during a global pandemic when access to restrooms and proper hand washing are a critical part of the state’s public health response. AB 1883 will address this problem by creating an inventory of public restrooms and making that data available on a user-friendly website that is searchable by zip code.”

9) **Arguments in Opposition.** None on file.

REGISTERED SUPPORT / OPPOSITION:

Support

ACLU California Action
Coalition on Homelessness, San Francisco
Glide
National Association of Social Workers, California Chapter
Public Hygiene Lets US Stay Human (PHLUSH)
Women's Empowerment

Opposition

None on file.

Analysis Prepared by: Rainer Apostol / L. GOV. / (916) 319-3958