

---

## SENATE COMMITTEE ON APPROPRIATIONS

Senator Ricardo Lara, Chair  
2015 - 2016 Regular Session

---

### SB 1406 (Mendoza) - Construction-related accessibility: public entities

**Version:** May 10, 2016

**Policy Vote:** JUD. 7 - 0

**Urgency:** No

**Mandate:** No

**Hearing Date:** May 16, 2016

**Consultant:** Mark McKenzie

**This bill meets the criteria for referral to the Suspense File.**

**Bill Summary:** SB 1406 would require an attorney who sends a demand letter or serves a complaint alleging a construction-related accessibility violation against specified school entities to send a copy of the complaint and notification of the results of the claim to the California Commission on Disability Access (CCDA), as specified.

#### **Fiscal Impact:**

- Automation costs of \$40,000 to \$60,000 to develop and implement a digital data capture format necessary to conduct analysis of reported information. (General Fund)
- Estimated CCDA staffing costs of approximately \$150,000 for 1 PY of new staff, plus administrative support, to compile and track additional data regarding disability access complaints against public school entities. (General Fund)  
-----see staff comments-----
- Cost pressures of approximately \$242,000 in 2017-18 and \$162,000 ongoing to move to an expanded office space to accommodate additional staff.  
-----see staff comments-----

**Background:** Individuals with disabilities and medical conditions have legal protections to ensure full and free access to and the use of roadways, sidewalks, buildings and facilities open to the public, hospitals and medical facilities, and housing. Additionally, under the Unruh Civil Rights Act, all persons, regardless of sex, race, color, religion, ancestry, national origin, disability or medical condition, are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments. After Congress enacted the Americans with Disabilities Act (ADA) in 1990, the Legislature provided that violations of the ADA are also violations of the Unruh Act.

Existing law establishes the CCDA, an independent state agency composed of 17 members, to monitor disability access compliance and make recommendations to the Legislature for necessary changes in order to facilitate implementation of state and federal laws on disability access. The Commission receives copies of demand letters and complaints from attorneys alleging construction-related physical access violations in places of public accommodation. These complaints are primarily filed against small businesses, and oftentimes seek expedited cash payments rather than correction of the accessibility violation. Existing law, AB 1521 (Judiciary Committee), Chapter 755/2015, also requires attorneys in disability access cases to also notify CCDA within five

business days of any judgment, settlement, or dismissal of any claims alleged in the complaint, of certain information regarding the resolution of the complaints in a standard format specified by the Commission. The CCDA is required to compile and upload the data on its website at specified quarterly and semi-annual intervals, and annually report tabulated data to the Legislature.

**Proposed Law:** SB 1406 would require an attorney who sends a demand letter or serves a complaint alleging a construction-related accessibility claim against a “public entity” to do the following:

- Send a copy of the demand letter or complaint, and information about the complaint, to the CCDA within five days of serving the letter or complaint, in a format specified by the CCDA.
- Notify the CCDA within five days of judgment, settlement, or dismissal of any claims, as specified, including the date of the resolution, whether the alleged violations were remedied, and if the violations were not fully remedied, whether another favorable result was achieved.

The bill would apply to demand letters and complaints alleging claims against the following “public entities:” the Regents of the University of California, the Trustees of the California State University and the California State University, the California Community Colleges office of the Chancellor and the California Community Colleges, a K-12 school district, or any local education agency.

**Related Legislation:** AB 54 (Olsen), currently pending in the Senate Judiciary Committee, would require an attorney who provides copies of a demand letter or complaint to the CCDA to also submit information about the demand letter or complaint in a standard format as specified by the commission.

**Staff Comments:** In 2015, the CCDA received approximately 3,000 demand letters and complaints alleging construction-related accessibility violations against places of public accommodation. As a result of AB 1521 requirements, the CCDA has also begun receiving notifications of judgments, settlements, and dismissals; the Commission received 124, 171, and 243 notices in October, November, and December of 2015, respectively. Commission workload has been impacted by the passage of AB 1521, such that the CCDA is required to do additional research and analysis to match resolution notices with original alleged violations, and compile and report the collective data. **Staff notes** that the Governor’s proposed 2016-17 Budget includes an augmentation of \$100,000 for the CCDA for the addition of 1 PY of staff (including benefits and OE&E costs) to manage the increased workload following the passage of AB 1521. The Budget Subcommittees in both houses have approved the budget change proposal for the additional staff.

The CCDA indicates that SB 1406 would further increase workload, and drive additional automation costs to move from a manual data processing to a digital capture format. Initial information technology systems and associated costs would be approximately \$40,000, with future build outs of approximately \$20,000 as needs grow. Staff estimates that the bill would also require the addition of at least 1 PY of staff plus administrative support, at a cost of approximately \$150,000, but CCDA indicates it may need 2 PY, plus part-time legal staff assistance, if the Legislature intends the

Commission to be a true research and analysis operation, rather than performing simple data reporting functions. It should also be noted that much of the CCDA's current work is performed with the assistance of volunteer support for its projects, which is neither reliable nor sustainable.

The CCDA also notes that its current office configuration, which is a shared space sub-leased from the Department of Rehabilitation, is insufficient to support additional staff that would be required to implement the bill. As such, the bill creates cost pressures to move to a larger office space. One-time moving costs would be approximately \$80,000, according to a Department of General Services estimate, and annual office space leasing costs would be approximately \$200,000. The amount of CCDA's current lease, which expires at the end of this fiscal year, is nearly \$38,000, so the bill would impose ongoing cost pressures of approximately \$162,000.

**-- END --**