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| **Date Submitted** | 6/1/2018 |
| **Submitting Department** | Mayor’s Office of Leg Affairs |
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| **Reviewed and approved by Department Head?**  | X YES □ NO |
| **Reviewed and approved by Commission?** | □ YES □ NO X N/A |

**SB 898**

**Sen. Hertzberg, District 18, Democrat**

**Bail: Surety insurers**

**Recommended Position**

**□ SPONSOR X SUPPORT**

**□ SUPPORT if amended □ OPPOSE**

**□ OTHER & Describe**

**Summary**

This bill requires bail agents to translate their contracts into five non-English languages and requires them to post the English version and translations online, and requires bail agents and bail companies to submit specified information and documents to the California Department of Insurance (CDI), Judicial Council, and Attorney General.

SB 898 calls on the state Department of Insurance to study the bail insurance market, particularly the relationship between the risk assumed by the insurer and the rates charged for coverage. The Department would also compare the risk and rates of bail insurance with the risk and rates of automobile insurance in California and make appropriate recommendations based on the Department’s analysis.

**Background/Analysis**

Existing law generally regulates the undertaking of bail and the licensing of bail agents, bail permittees, and bail solicitors. Existing law requires an insurer executing an undertaking of bail to do so through a person holding a bail license. Existing law authorizes the Insurance Commissioner to issue bail licenses and to regulate bail licensees. Existing law makes it a public offense to violate these provisions, or any rule of the commissioner made pursuant to these provisions, and makes a violation punishable by a fine not exceeding $10,000, or by imprisonment as specified, or by both that fine and imprisonment.

**Challenge**

The California Labor Federation argues that bail insurer contracts contain exploitive terms including payday lender type installment plans, property liens, co-signing by family and friends, invasive surveillance, and unpredictable costs. The lack of transparency, oversight, and review of these practices can have devastating impacts on low-income families.

The Golden State Bail Agents Association (GSBAA) argues that roughly 90% of licensees are employees of a bail agency and the bill places an unreasonable burden on employees. GSBAA suggests that CDI provide model forms in non-English languages and that CDI collect and post the purchase contracts. GSBAA also argues that there is no good reason why the same annual and quarterly reports must be sent to three different agencies; CDI should receive them and make the information available on request to agencies and members of the public.

**Solution/Recommended Proposal**

This bill requires bail agents to translate their contracts into five non-English languages and requires them to post the English version and translations online, and requires bail agents and bail companies to submit specified information and documents to the California Department of Insurance (CDI), Judicial Council, and Attorney General.

**Departments Impacted & Why**

No other departments impacted.

**Fiscal Impact**

 According to the Senate Appropriations Committee, this bill will result in additional workload for CDI to review all bail contracts for accuracy of translation at an estimated to cost to the Insurance Fund of $29,000 in FY 2018-19 and $126,000 in FY 2019-20.

There may also be unknown costs to the General Fund related to the potential prosecution and incarceration of violators. The proposed 2018-19 per capita cost to house a person in a state prison is $80,729 annually, with an annual marginal rate per inmate of between $10,000 and $12,000. The average contract-prison rate cost per inmate is over $30,000 annually. The actual costs would depend on how many defendants are sentenced to prison for these violations.

 Additionally, there may be unknown, potentially significant workload cost to the Trial Court Trust Fund from pressures on the court to adjudicate charges brought against defendants who violate the provisions of this bill. While the courts are not funded on a workload basis, an increase in workload could result in delayed court services and would put pressure to fund additional staff and resources.

**Support / Opposition**

Supported by:

California Labor Federation

Department of Insurance

Ella Baker Center for Human Rights

Opposed by:

None on record