



Via Facsimile and Electronic Mail

July 31, 2014

The Honorable Isadore Hall, III
State Capitol
P.O. Box 942849
Sacramento, CA 94249-0064
Tel: (916) 319-2064
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Re: AB 1576 (Hall) – Oppose Unless Amended

Dear Assemblymember Hall:

The HIV Prevention Justice Alliance, the Positive Women’s Network-USA, and the Center for HIV Law and Policy write to express our strong **opposition to AB 1576 unless amended**. We strongly oppose efforts to authorize state-mandated STD testing, including HIV testing, under Labor Code section 6401.5. State-mandated STD/HIV testing is a matter of great public concern and raises serious legal and policy issues. We have provided a thorough analysis of these important concerns in three previous letters (attached hereto). In addition to the aforementioned legal and policy concerns, we urge you to consider the adverse fiscal impact that is likely to result from implementing state-mandated STD/HIV testing without clear employment protections in place. By helping to reduce the number of complaints filed with state agencies for actual or perceived discrimination, our proposed amendments will likely reduce state expenditures.

Failing to incorporate amendments that provide job protections and assurances of confidentiality and privacy to job applicants and employees will likely result in greater conflict in the workplace. Without clarity surrounding the relative rights and responsibilities of both employers and job applicants and employees, there will likely be a significant increase in actual or perceived discrimination which will drive job applicants and employees to file complaints and grievances with state administrative agencies. By increasing the number of complaints filed with the Department of Fair Employment and Housing (“DFEH”), AB 1576 will have a direct and adverse fiscal impact on the state.

According to DFEH data,¹ there were 114 DFEH complaints filed on the basis of HIV/AIDS in 2001. As recent as 2006, 113 such complaints were filed on the basis of HIV/AIDS. More recently, the number of DFEH complaints based on HIV/AIDS has slowed down, relatively speaking, to 53 complaints in 2011. This represents a reduction by almost half of DFEH complaints filed based on HIV/AIDS. Less actual or perceived discrimination in the workplace saves state and taxpayer money – and conserves valuable and limited state resources – by reducing expenditures associated with processing and adjudicating complaints and grievances. Implementing AB 1576’s state-mandated STD/HIV testing without clear employment protections will likely reverse this trend. Without our proposed amendments, AB 1576 is likely to increase – and even double – the current number of DFEH complaints filed. This cost cannot be overlooked and must be included in any calculations determining the fiscal impact of this bill on the state.

AB 1576’s adverse fiscal impact can be substantially mitigated by incorporating our proposed amendments. Because the amendments offer basic job protections and bring clarity to the rights and responsibilities of all parties, they are designed to reduce conflicts in the workplace.

We urge you to incorporate our amendments into AB 1576. We look forward to working with you, the author, and sponsor. In connection with this matter, please contact Walt Senterfitt at WSenterfit@aol.com with the HIV Prevention Justice Alliance or Ivan Espinoza-Madrigal at The Center for HIV Law and Policy at iespinoza@hivlawandpolicy.org or (212) 430-6733.

Respectfully submitted,

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HIV Prevention Justice Alliance

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Positive Women’s Network-USA

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Legal Director
The Center for HIV Law and Policy

Enclosures: Letters dated April 23, 2014, June 17, 2014, and July 28, 2015.
CC: Senate Appropriations Committee

¹ This DFEH data includes all California counties from January 1, 2000 to July 26, 2012, and reflects complaints filed on the basis of “Physical Disability-AIDS.”