Agenda Item: 6

Consideration of Proposed Senate Bill 1519 [INFORMATION AND DISCUSSION]
SB 1519, as introduced, Yee. Local governments: taxicabs.

(1) Existing law requires every city or county to adopt an ordinance or resolution regarding taxicab transportation service, including, but not limited to, provisions for a policy for the entry into the business of providing taxicab transportation service and for the establishment or registration of rates for the provision of that service.

This bill would require the regulator, defined as the local entity responsible for the regulation of, and enforcement of rules, regulations, or ordinances governing, taxicabs within the local jurisdiction defined upon receipt of a complaint containing sufficient information to warrant conducting an investigation, to investigate any business that advertises a taxicab transportation service for hire identified in the complaint. The bill would require the regulator, by ordinance, resolution, or other appropriate procedure, to adopt criteria that establishes the type of information, if contained in a complaint, that is sufficient to warrant an investigation.

This bill would also require every taxicab transportation service to include the number of its certificate, license, or permit in every written or oral advertisement, as defined, of the services it offers, and would authorize the regulator to impose a fine of not more than $5,000 if it finds, after a hearing, that a person or corporation is operating as a taxicab transportation service without a valid certificate, license, or
permit, or fails to include, the number of the certificate or permit in any written or oral advertisement.

(2) Existing law provides for the termination of telephone service by a telephone corporation or telegraph corporation to a charter-party carrier of passengers without a valid certificate or permit, pursuant to specified procedures by the Public Utilities Commission. This bill would provide for the termination of telephone service by a telephone corporation or telegraph corporation to a taxicab transportation service without a valid certificate, license, or permit and places enforcement of this prohibition with the regulator. By imposing a new or higher level of service upon local governments, this bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement. This bill would provide that no reimbursement is required by this act for a specified reason.


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

SECTION 1. Section 53075.7 is added to the Government Code, to read:

53075.7. (a) Upon receipt of a complaint containing sufficient information to warrant conducting an investigation, the regulator shall investigate any business that advertises or operates taxicab transportation service for hire. The regulator shall, by ordinance, resolution, or other appropriate procedure, adopt criteria that establishes the type of information, if contained in a complaint, that is sufficient to warrant an investigation. Pursuant to this investigation, the regulator shall do all of the following:

(1) Determine which businesses, if any, are required to have in effect a valid taxicab certificate, license, or permit as required by ordinance, but do not have that valid authority to operate.

(2) Inform any business not having valid authority to operate that it is in violation of law.

(3) Within 60 days of informing the business pursuant to paragraph (2), institute civil or criminal proceedings, or both,
pursuant to the governing municipal code or other authority of
jurisdiction.
(b) For purposes of this section:
(1) "Advertises" means any action described in subdivision (b)
of Section 53075.9.
(2) "Regulator" means the local entity responsible for the
regulation, including, but not limited to, the certification, licensing,
or permitting of, and enforcement of rules, regulations, or
ordinances governing, taxicabs within the local jurisdiction.
SEC. 2. Section 53075.8 is added to the Government Code, to
read:
53075.8. (a) The Legislature finds and declares that advertising
and use of telephone service is essential for a taxicab transportation
service to obtain business and conduct intrastate passenger
transportation services. Unlawful advertisements by taxicabs
operating without a valid taxicab certificate, license, or permit
required by any ordinance has resulted in properly certificated,
licensed, and permitted taxicab operators competing with these
taxicabs operating without a proper taxicab certificate, license, or
permit using unfair business practices. Taxicabs operating without
a proper taxicab certificate, license, or permit have also exposed
passengers to unscrupulous persons who portray themselves as
lawful operators. Many of these taxicabs operating without a proper
taxicab certificate, license, or permit have been found to have also
been operating without insurance, or in an unsafe manner, thereby
placing their passengers at risk.
(b) (1) The Legislature further finds and declares that the
termination of telephone service utilized by taxicabs operating
without proper authority is essential to ensure the public safety
and welfare. Therefore, local taxicab regulatory authorities should
take enforcement action, as specified in this section, to disconnect
telephone service of unauthorized taxicab operators who unlawfully
advertise passenger transportation services in yellow page
directories and other publications. The enforcement actions
provided for by this section are consistent with the decision of the
California Supreme Court in Goldin v. Public Utilities Commission
(1979) 23 Cal. 3d 638.
(2) For purposes of this section, a telephone corporation or
telegraph corporation, or a corporation that holds a controlling
interest in the telephone or telegraph corporation, or any business
that is a subsidiary or affiliate of the telephone or telegraph
corporation, that has the name and address of the subscriber to a
telephone number being used by an unauthorized taxicab operator
shall provide the regulator, or an authorized officer or employee
of the regulator, upon demand, and the order of a magistrate, access
to this information. A magistrate may only issue an order for the
purposes of this subdivision, if the magistrate has made the findings
required by subdivision (c).

(c) A telephone or telegraph corporation shall refuse telephone
service to a new subscriber and shall disconnect telephone service
of an existing subscriber only after it is shown that other available
enforcement remedies of the regulator have failed to terminate
unlawful activities detrimental to the public welfare and safety,
and upon receipt from any authorized officer or employee of the
regulator of a writing, signed by a magistrate, as defined by
Sections 807 and 808 of the Penal Code, finding that probable
cause exists to believe that the subscriber is advertising or holding
out to the public to perform taxicab transportation services without
having in force a valid certificate, license, or permit issued by the
regulator authorizing those services, or that the telephone service
otherwise is being used or is to be used as an instrumentality,
directly or indirectly, to violate or assist in violation of the laws
requiring a taxicab operator to have valid operating authority.
Included in the writing of the magistrate shall be a finding that
there is probable cause to believe that the subject telephone
facilities have been, or are to be, used in the commission or
facilitation of holding out to the public to perform taxicab
transportation services without having proper authorization to
provide those services and that, absent immediate and summary
action, a danger to the public welfare and safety will result.

(d) Any person aggrieved by any action taken pursuant to this
section shall have the right to file a complaint with the regulator
and may include therein a request for interim relief. The regulator
shall schedule a public hearing on the complaint to be held within
21 calendar days of the filing and assignment of a docket number
to the complaint. The remedy provided by this section shall be
exclusive. No other action at law or in equity shall accrue against
any telephone or telegraph corporation because of, or as a result
of, any matter or thing done or threatened to be done pursuant to
this section.
(c) At any hearing held on a complaint filed with the regulator pursuant to subdivision (d), the regulator staff shall have the right to participate, including the right to present evidence and argument and to present and cross-examine witnesses. The regulator staff shall have both the burden of providing that the use made, or to be made, of the telephone service is to hold out to the public to perform, or to assist in performing, services as a taxicab transportation service, or that the telephone service is being, or is to be, used as an instrumentality, directly or indirectly, to violate, or assist in violating, the valid operating authority applicable to providers of taxicab transportation services and that the character of the acts are such that, absent immediate and summary action, a danger to public welfare or safety will result, and the burden of persuading the regulator that the telephone services should be refused or should not be restored.

(f) The telephone or telegraph corporation, immediately upon refusal or disconnection of service in accordance with subdivision (e), shall notify the subscriber in writing that the refusal or disconnection of telephone service has been made pursuant to a request of a regulator and the writing of a magistrate, and shall include a copy of this section, a copy of the writing of the magistrate, and a statement that the customer of the subscriber may request information from the regulator concerning any provision of this section and the manner in which a complaint may be filed.

(g) The provisions of this section are an implied term of every contract for telephone service and a part of any application for telephone service. Applicants for, and subscribers and customers of, telephone service, have, as a matter of law, consented to the provisions of this section as a consideration for the furnishing of the telephone service.

(h) As used in this section, the terms "person," "customer," and "subscriber" include the subscriber to telephone service, any person using the telephone service of a subscriber, an applicant for telephone service, a corporation, a limited liability company, a partnership, an association, and includes their lessees and assigns.

(i) As used in this section, the following terms have the following meanings:
(1) "Authorized officer or employee of the regulator" includes any employee of the regulator designated by the authority governing the activities and operations of the regulatory entity.

(2) "Regulator" has the same meaning as specified in subdivision (b) of Section 53075.7.

(3) "Telegraph corporation" has the same meaning as specified in Section 236 of the Public Utilities Code.

(4) "Telephone corporation" has the same meaning as specified in Section 234 of the Public Utilities Code.

SEC. 3. Section 53075.9 is added to the Government Code, to read:

53075.9. (a) Every taxicab transportation service shall include the number of its certificate, license, or permit in every written or oral advertisement of the services it offers.

(b) For purposes of this subdivision, "advertisement" includes, but is not limited to, the issuance of any card, sign, or device to any person, the causing, permitting, or allowing the placement of any sign or marking on or in any building or structure, or in any media form, including newspaper, magazine, radiowave, satellite signal, or any electronic transmission, or in any directory soliciting taxicab transportation services subject to this chapter.

(c) Whenever the regulator after a hearing, finds that any person or corporation is operating as a taxicab transportation service without a valid certificate, license, or permit or fails to include in any written or oral advertisement the number required by subdivision (a) of Section 50739, the regulator may impose a fine of not more than five thousand dollars ($5,000) for each violation. The regulator may assess the person or corporation an amount sufficient to cover the reasonable expense of investigation incurred by the regulator. The regulator may assess interest on any fine or assessment imposed, to commence on the day the payment of the fine or assessment becomes delinquent. All fines, assessments, and interest collected shall be deposited at least once each month in a fund established for the purpose of enforcing the provisions of this section.

(d) For purposes of this section, "regulator" has the same meaning as specified in subdivision (b) of Section 53075.7.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act provides for offsetting savings to local agencies or school
districts that result in no net costs to the local agencies or school districts, within the meaning of Section 17556 of the Government Code.