PREVENTION & EDUCATION: HIV/AIDS

AB 88 (Murray)  (amd 6/24/93) **GOV. DESK** SUPPORT
Requires AFDC and Medi-Cal applicants to be given written information on sex education, AIDS transmission, drug use, family planning services and birth control devises. As suggested by LIFE, the bill was amended to address HIV transmission, not AIDS transmission. (Continuing to pursue amendments regarding multiple languages.)
STATUS: Pending in Senate Appropriations
Passed Assembly Human Services (4-2) on 3/17/93
Passed Assembly Ways & Means (13-7) on 4/14/93
Passed Assembly Floor (43-30) on 4/19/93
Passed Senate Health Committee (6-3) on 7/14/93

AB 260 (Willie Brown)  **GOV. DESK** SUPPORT
Reintroduction of needle exchange bill from 1992. Allows a local jurisdiction to establish a program for a one-to-one exchange of syringes and needles.
STATUS: Pending in Senate Appropriations
Passed Assembly Health (3-4) on 3/30/93
Passed Ways & Means (11-9) on 5/5/93
Passed Assembly Floor (43-32) on 5/20/93
Passed Senate Health (6-3) on 7/7/93

AB 925 (Lee)  (amd 4/27/93) **HIJACKED** LIFE SPONSORED
Creates an AIDS tax check-off on state income tax forms to allow a portion of a taxpayer's refund to supplement the state's AIDS prevention education grant monies.
STATUS: Pending in Senate Revenue & Taxation Committee*
Passed Assembly Revenue & Taxation (6-1) on 4/19/93
Passed Ways & Means (14-7) on 5/19/93
Passed Assembly Floor (46-25) on 6/3/93* x. 7/14/93;
Passed Senate Health (6-0) on 6/30/93

AB 1623 (Bowen)  (amd 4/21/93) **GOV. DESK** SUPPORT
Requires manufacturers who sell condoms in this state to provide the Department of Health Services with a copy of their Quality Assurance Tests from the federal FDA. DHS would be required to disseminate this information to the general public.
STATUS: Pending on Senate Floor
Passed Assembly Health (11-3) on 4/13/93
Passed Ways & Means (13-8) on 5/5/93
Passed Assembly Floor (45-28) on 6/24/93
Passed Senate Health (6-0) on 6/23/93
Passed Senate Appropriations: (28-8) on 7/12/93

AB 1896 (Bornstein)  (amd 4/19/93) **GOV. DESK** SUPPORT
Provides for the inclusion of HIV and AIDS education training in the licensing criteria for operators and staff of community care facilities.
STATUS: Pending in Senate Appropriations
Passed Assembly Human Services (5-0) on 4/21/93
Passed Assembly Ways & Means (21-0) on 6/2/93
Passed Assembly Floor (75-0) on 6/8/93
Passed Senate Health (6-0) on 6/30/93
PREVENTION & EDUCATION: HIV/AIDS (cont'd)

SB 790 (Watson) **TWO-YEAR BILL**
Requires the Department of Corrections to develop an AIDS prevention/education program for all inmates and requires each inmate to attend an AIDS/HIV program when entering and being released from an institution.
STATUS: Pending in Senate Judiciary Committee. (Two year bill)

SB 1049 (Watson) **TWO-YEAR BILL**
Needle exchange bill identical to AB 260 (W. Brown).
STATUS: Pending in Senate Appropriations
Passed Senate Health (6-3) on 7/7/93

SB 1156 (Watson) **TWO-YEAR BILL**
Would require condom vending machines to be installed in on-sale liquor licensees (bars) that do not serve food.
STATUS: Held in Senate Governmental Organization Committee. (Two year bill)

CARE AND TREATMENT: HIV/AIDS

AB 80 (Peppe) **GOV. DESK**
This bill requires health care service plans and nonprofit hospital service plans to notify a patient in writing if coverage for an experimental medical procedure is denied, and require the plan to hold a conference to discuss the denial at the request of the patient. The plan provider would also be required to offer a description of alternative treatments or services covered by the plan. This is a revised version of AB 853 of last session, which died in Senate Insurance Committee.
STATUS: Pending in Senate Appropriations
Passed Assembly Health Committee (10-5) on 4/20/93
Passed Ways & Means (14-7) on 5/6/93
Passed Assembly Floor (48-28) on 5/20/93
Passed Senate Insurance (7-0) on 7/14/93

AB 823 (T. Friedman) **GOV. DESK**
This bill revises the licensure process for Residential Care Facilities for the Chronically Ill (RCFCI) and facilitates the conversion of Residential AIDS Shelters to RCFCI's. The bill allows an administrator to be responsible for more than one facility; permits a facility to hold an additional licensure category; allows families to live together; and requires the Department to designate one person in each regional office to coordinate the licensure process and monitoring. (Co-sponsored by AIDS Project Los Angeles)
STATUS: Up in Senate Appropriations on 8/16/93
Passed Assembly Human Services (6-0) on 4/21/93
Passed Ways & Means (21-0) on 5/25/93
Passed Assembly Floor (76-0) on 6/1/93
Passed Senate Health (10-0) on 7/14/93

AB 1651 (Speier) **TWO-YEAR BILL**
Extends the deadline for appropriation of state grant funds for a vaccine trial on the maternal transmission of HIV-from 4/30/93 to 1/1/94.
STATUS: Pending in Assembly Health Committee. (Two year bill)

AB 2316 (Valerie Brown) **GOV. DESK**
Requires a primary care physician who is closing his/her practice to notify each patient each writing, notify the patient of the intended disposition of medical records and provide the transfer of the medical records to a new doctor of the patient's choice at no cost to the patient.
STATUS: Pending in Senate Appropriations
Passed Assembly Health (15-0) on 4/20/93
Passed Ways & Means (21-0) on 5/25/93
Passed Assembly Floor (75-0) on 6/1/93
Passed Senate Business & Professions (6-2) on 7/12/93
CARE AND TREATMENT: HIV/AIDS (cont’d)

SB 140 (Kopp) **TWO-YEAR BILL** ( amd 5/5/93) WATCH/OPPOSE
Allows laboratories to report test results directly to a patient who requests them. Current law only allows doctors access to lab results. Although the bill exempts HIV antibody tests from the provisions of the bill, there is concern that patients may not understand, misinterpret or misread a laboratory test result and not receive proper explanation and any necessary counseling.
STATUS: Pending in Senate Business & Professions Committee. (Two year bill)

SB 257 (Killea) **SIGNED INTO LAW** SUPPORT
Existing law allows for up to three pilot projects for determining the needs of hospice patients with acute inpatient care. This bill would extend the pilot program until 1997.
STATUS: Pending on Assembly Floor
Passed Senate Health (8-0) on 3/31/93
Passed Senate Appropriations (28-8) on 4/19/93
Passed Senate Floor (34-0) on 4/29/93
Passed Assembly Health (16-0) on 6/29/93
Passed Ways & Means (21-0) on 7/13/93

SB 1050 (Russell) **SIGNED INTO LAW** SUPPORT
Creates four demonstration projects to provide services to children who are alcohol drug exposed or who have HIV disease. The services would include specialized foster care homes and monitoring components.
STATUS: Pending on Assembly Floor
Passed Senate Health (7-0) on 4/14/93
Passed Senate Appropriations (11-0) on 5/10/93
Passed Senate Floor (37-0) on 5/20/93
Passed Assembly Human Services (4-0) on 6/30/93
Passed Ways & Means (21-0) on 7/13/93

SB 1194 (Johnston) **TWO-YEAR BILL** SUPPORT
Would revise the definition of a primary care provider to include dental care providers, as defined as a non-profit corporation that provides dental services to persons with AIDS.
STATUS: Held in Senate Appropriations Committee
Passed Senate Insurance (5-3) on 4/21/93

SJR 8 (Mello) **LAW (W/O GOV’S SIGNATURE)** SUPPORT
This resolution urges the President and the U.S. Congress to decriminalize the medical use of marijuana.
STATUS: Pending on Assembly Floor
Passed Senate Judiciary (7-2) on 5/25/93
Passed Senate Floor (22-9) on 6/3/93
Passed Assembly Health (10-3) on 7/13/93

CARE AND TREATMENT: WOMEN’S HEALTH

AB 478 (Barbara Friedman) **GOV. DESK** SUPPORT
Raises the cigarette tax $.02 a pack to generate money for breast cancer research and a prevention campaign. Lesbians are documented to have a higher incidence of breast cancer than heterosexual women, as high as one in three.
STATUS: Pending in State Appropriations
Passed Assembly Revenue & Taxation (7-2) on 6/17/93
Passed Ways & Means (13-1) on 6/2/93
Passed Assembly Floor (54-25) on 6/14/93
Passed Senate Revenue & Taxation (7-1) on 7/14/93

SB 112 (Roberti) **GOV. DESK** SUPPORT
Existing law requires physicians and surgeons to inform their patients on alternative treatments for breast cancer using a standardized form developed by DHS. This bill would require the dept. to review and update the form every three years.
STATUS: Pending in Ways & Means
Passed Senate Business & Professions (8-0) on 4/21/93
Passed Senate Appropriations (28-8) on 5/10/93
Passed Senate Floor (39-0) on 5/13/93
Passed Assembly Health (14-1) on 6/29/93
ACR 2 (Lee) LAW W/GOV'S SIGNATURE
Creates the California Commission on African American Men to research and advise on seven target areas, including health and social services. Such a Commission could advise the Legislature on HIV among African-American males, for example.
STATUS: Resolutions Chapter 3 of 1993 on 2/16/93
Passed Assembly Rules Committee (6-3) on 1/14/93
Passed Assembly (57-8) on 2/1/93
Passed Senate Rules Committee (4-0) on 2/10/93
Passed Senate (26-5) on 2/12/93

CARE AND TREATMENT: TUBERCULOSIS

AB 428 (Burton) TWO-YEAR BILL
Adds tuberculosis and hepatitis to worker compensation law for members of a city/county police department, sheriff’s department or district attorney’s office.
STATUS: Hold In Assembly Finance & Insurance Committee. (Two year bill)

AB 803 (Gotch) GOV'S DESK - has been amended, LIFE SUPPORTS OPPOSE/AMEND
Updates California law regarding a county health officer’s duties and responsibilities for tuberculosis. Until recently, it was a spot bill. As currently drafted, the bill allows the CHO overly broad scope to detain anyone who fits an epidemiological picture of a person with TB without judicial review. LIFE is working with the author and the sponsors to amend the bill in Senate Appropriations.
STATUS: Pending In Senate Appropriations
Passed Senate Health (6-0) on 7/14/93

TESTING: HIV/AIDS

SB 670 (Hayden) (amd 7/6/93) GOV'S DESK SUPPORT
Adds CD4+ lymphocyte tests to California statutes protecting the confidentiality of HIV antibody tests. As amended, limits application to CD4 tests done in conjunction with treatment of HIV disease.
STATUS: Pending In Ways & Means
Passed Senate Health (6-0) on 4/14/93
Passed Senate Appropriations (28-8) on 5/3/93
Passed Senate Floor (38-0) on 5/3/93
Passed Assembly Health (10-5) on 7/6/93

SB 1099 (Calderon) TWO-YEAR BILL WATCH
Requires persons engaged in the production of blood platelets to ensure the safety of the products and decrease the incidence of hepatitis and HIV when using pooled platelet products.
STATUS: Hold In Senate Health Committee. (Two year bill)

SB 1239 (Russell) TWO-YEAR BILL
(formerly SB 627) Allows non-consensual testing of a patient’s blood for HIV if a doctor or healthcare worker has experienced a significant exposure. Contradicts DHS guidelines on preventing transmission of HIV in a healthcare setting.
Sponsored by the California Medical Association; opposed by the California Nurses Association.
STATUS: Pending In Assembly Health Committee
Passed Senate Judiciary (7-2) on 5/11/93 (as SB 627)
Passed Senate Appropriations (28-8) on 6/3/93 (as SB 627)
Passed Senate Floor (27-4) on 6/9/93 (as SB 627)
HEALTH CARE: PRIVATE INSURANCE (cont’d)

AB 2213 (Lee)  (amd 4/19/93)  **TWO-YEAR BILL**  SUPPORT
Establishes guidelines for investment of state-controlled funds in corporations that impose disease-specific caps in employee health insurance plans.
STATUS:  Pending re-referral to Assembly Health Committee
         Hold in Ways & Means Committee
         Passed Assembly PERS (6-4) on 5/5/93
         (Two year bill)

SB 38 (Torres)  **TWO-YEAR BILL**  SUPPORT
Creates a California Health Plan Commission to implement the California Health Reform Act of 1993, a universal health care proposal for all California residents.
STATUS:  Held in Senate Appropriations Committee
         Passed Senate Insurance on 5/19/93

SB 590 (Torres)  (amd 4/27/93)  **GOV. DESK**  LIFE SPONSORED
Identical to AB 1100 (W. Brown), above.
STATUS:  Pending in Ways & Means
         Passed Senate Insurance (7-4) on 4/21/93
         Passed Senate Appropriations (7-2) on 5/17/93
         Passed Senate Floor (21-14) on 5/27/93
         Passed Assembly Health (10-6) on 6/29/93

HEALTH CARE: PUBLIC FINANCING

AB 736 (Escutia)  (amd 4/27/93)  **GOV. DESK**  SUPPORT
This bill would expedite Medi-Cal payments for hospices serving persons with AIDS. It would add HIV infection as a presumptive category for Medi-Cal eligibility, and would require the Department of Health Services to reimburse hospice providers without requiring the provider to first determine that no other reimbursement options exist.
STATUS:  Pending in Senate Appropriations
         Passed Assembly Health (10-5) on 4/20/93
         Passed Ways & Means (13-8) on 5/25/93
         Passed Assembly Floor (52-8) on 6/1/93
         Passed Senate Health (6-4) on 7/14/93

AB 1738 (Horcher)  **WATCH**
Revises the state's Disability Elective Insurance Coverage program for self-employed persons. LIFE helped kill an earlier version of the bill late in the session last year; the bill has been substantially recast.
STATUS:  Pending in Senate Appropriations
         Passed Assembly Finance & Insurance (12-0) on 4/20/93
         Passed Ways & Means (21-0) on 6/2/93
         Passed Assembly Floor (73-0) on 6/9/93
         Passed Senate Industrial Relations (4-0) on 7/14/93

CRIMINAL JUSTICE: HIV/AIDS

AB 1608 (Umberg)  **FAILED**  WATCH
Prohibits conjugal visits for prisoners who were sentenced to the death penalty or to life imprisonment without possibility of parole. There is concern that hostile amendments may be pushed to statutorily prohibit conjugal visitation rights to prisoners known to be HIV-infected.
STATUS:  Held in Assembly Public Safety Committee.

SB 89 (Lockyer)  **WATCH**
This is a renumbering of the Government and Penal Codes regarding firearms. However, one section of the affected codes includes a provision in existing law that adds a three-year penalty enhancement for the conviction of a violent sex crime if the defendant has AIDS or knows he or she is HIV-infected.
STATUS:  Pending in Assembly Public Safety Committee
         Passed Senate Judiciary (9-0) on 3/23/93
         Passed Senate Appropriations (28-8) on 4/19/93
         Passed Senate Floor (32-0) on 4/29/93
HEALTH CARE: PRIVATE INSURANCE

AB 16 (Margolin)  GOV. DESK
States the intent of the Legislature to create a universal health care system for California. Does not create, amend, delete or otherwise affect any statute; SPOT BILL.
STATUS: Pending in Senate Appropriations
Passed Assembly Health Committee (10-7) on 5/18/93
Passed Ways & Means (13-8) on 6/2/93
Passed Assembly Floor (45-29) on 6/9/93
Passed Senate Insurance (6-2) on 7/7/93

AB 28 (Margolin)  (amd 4/01/93) GOV. DESK
Requires a health insurance plan (ie: HMO plan) that has a 60 day waiting period before a person's coverage becomes effective to credit the person for the time the person was covered under prior coverage. This bill would narrow or eliminate gaps in HMO health plan coverage for people changing jobs. Clean-up bill to AB 1672 of 1992.
STATUS: Pending in Senate Appropriations
Passed Assembly Health Committee (15-0) on 4/13/93
Passed Ways & Means (21-0) on 6/5/93
Passed Assembly Floor (77-0) on 5/13/93

AB 336 (Snyder)  (amd 4/20/93) GOV. DESK
Requires a health insurance plan (ie: HMO plan) that has a 60 day waiting period before a person's coverage becomes effective to credit the person for the time the person was covered under prior coverage. This bill would narrow or eliminate gaps in HMO health plan coverage for people changing jobs. Clean-up bill to AB 1672 of 1992.
STATUS: Pending in Senate Appropriations
Passed Assembly Health (15-0) on 4/19/93
Passed Ways & Means (21-0) on 5/19/93
Passed Assembly Floor (70-0) on 5/27/93
Passed Senate Judiciary (8-0) on 7/13/93

AB 458 (Speier)  GOV. DESK
Requires a health insurance plan (ie: HMO plan) that has a 60 day waiting period before a person's coverage becomes effective to credit the person for the time the person was covered under prior coverage. This bill would narrow or eliminate gaps in HMO health plan coverage for people changing jobs. Clean-up bill to AB 1672 of 1992.
STATUS: Pending in Senate Appropriations
Passed Assembly Health (15-0) on 4/19/93
Passed Ways & Means (21-0) on 5/19/93
Passed Assembly Floor (70-0) on 5/27/93
Passed Senate Judiciary (8-0) on 7/13/93

AB 919 (Speier)  GOV. DESK
Requires a health insurance plan (ie: HMO plan) that has a 60 day waiting period before a person's coverage becomes effective to credit the person for the time the person was covered under prior coverage. This bill would narrow or eliminate gaps in HMO health plan coverage for people changing jobs. Clean-up bill to AB 1672 of 1992.
STATUS: Passed Senate Business & Professions on 6/17/93
Passed Assembly Health on 7/7/93
Passed Ways & Means (12-3) on 5/25/93
Passed Assembly Floor (73-3) on 6/10/93

AB 1100 (W. Brown)  (amd 4/12/93) GOV. DESK
LIFE SPONSORED
Comprehensive reform bill to prevent discriminatory practices by insurance companies against person with HIV/AIDS. Among other provisions, the bill prohibits "post-claims underwriting," requires all health insurance policies sold in California to follow California law, standardizes health insurance application forms, and requires a person who is not insured to seek court redress. Identical to SB 690. (These two bills are co-sponsored by AIDS Project Los Angeles)
STATUS: Passed Senate Insurance on 5/9/93
Passed Assembly Health (10-5) on 4/20/93
Passed Ways & Means (13-8) on 6/6/93
Passed Assembly Floor (47-31) on 6/20/93
* Failed passage (5-2) on 7/14/93

AB 2002 (Woodruff)  FAILED
Defines "healthy lifestyle" for purposes of health insurance underwriting. The definition is vague, and allows health insurers to include non-relevant factors in determining premiums.
STATUS: Pending in Senate Insurance Committee
Passed Assembly Health Committee (14-0) on 5/25/93
Passed Ways & Means (21-0) on 6/2/93
Passed Assembly Floor (75-0) on 6/9/93
needle exchange programs in the United States and in Europe have shown that the exchange of used hypodermic needles and syringes for clean hypodermic needles and syringes does not increase drug use in the population, can serve as an important bridge to treatment and recovery from drug abuse, and can curtail the spread of human immunodeficiency virus (HIV) infection among the intravenous drug user population.

(b) In order to attempt to reduce the spread of HIV infection among the intravenous drug user population within California, the state department shall authorize a one-for-one clean needle and syringe exchange program pursuant to this chapter in any city, county, or city and county, upon the request of a county board of supervisors and the local health officer of that county, or upon the request of the city council, the mayor, and the local health officer of a city with a health department.

(c) Authorization by the state department shall be based upon a proposed program as described in Section 199.84.

199.84. (a) A city and county, or a county, or a city with a health department that receives the department’s authorization pursuant to this chapter shall, in consultation with the state department, the State Department of Alcohol and Drug Programs, the local alcohol and drug administrator, and the University of California, conduct a program to provide one-for-one exchange of clean hypodermic needles and syringes as part of a network of comprehensive services, including treatment services, to combat the spread of HIV infection among injection drug users. The program shall include, but not be limited to, all of the following:

(1) The development of a set of operating procedures by the local health officer for the furnishing and one for one exchange of hypodermic needles and syringes for injection drug users and the approval of the operating procedures by the state department.

(2) The development of a data base and collection of data relating to the furnishing and one-for-one exchanging of clean hypodermic needles and syringes to injection drug users by persons designated in the operating procedures developed pursuant to paragraph (1).

(3) The provision of community outreach and preventive education that is culturally sensitive and linguistically appropriate to reduce program participants’ exposure to HIV infection.

(4) A demonstrated effort to secure treatment for drug addiction for participants upon their request.

(5) The involvement of the community in the development of the program and assessment design.

(6) The involvement of local public safety officials in the development of the program and assessment design.

(7) Accessibility of the program to the target population while being sensitive to community concerns.

(8) Appropriate levels of staff expertise in working with injection drug users and diverse cultural populations, and adequate staff training in providing community referrals, needle hygiene, and safety precautions.

(9) Enhanced treatment capacity, insofar as possible, for injection drug users.

(10) Preferential acceptance, insofar as possible, of HIV-infected drug users into drug treatment programs.
Display 1993-1994 Bill Text - INFORMATION
BILL NUMBER: AB 2610
BILL TEXT

California; Tacoma, Washington; Boulder, Colorado; Portland, Oregon; and other cities in the United States indicate that injection drug users are concerned about AIDS and do change their behavior when offered, in a nonjudgmental setting, reasonable strategies to protect themselves. A San Francisco study of injection drug users found that the percentage of drug users who reported using bleach to sterilize their equipment increased from 3 percent to 61 percent after a street outreach program was in operation for six months and to 86 percent after two years.

(i) A study by Yale University of a needle exchange program in New Haven, authorized by the Connecticut Legislature in 1990, estimates that in the first eight months of operation, the program reduced new HIV infections by 33 percent.

(j) California is one of 10 states that criminalizes the furnishing, possession, or use of hypodermic needles or syringes without a prescription. Of these 10 states, three have either passed legislation or waived the prohibition through administrative action over the last several years to permit the development of needle exchange programs. California has the highest seroprevalence rate of HIV infection of any state that has not waived the prohibition or adopted a statute to permit needle exchange programs.

SEC. 2. Section 4146 of the Business and Professions Code is amended to read:

4146. (a) Notwithstanding any other provision of law, a pharmacist or physician may, without a prescription or a permit, furnish hypodermic needles and syringes for human use in the administration of insulin or adrenaline; a pharmacist or veterinarian may, without a prescription or permit, furnish hypodermic needles and syringes for use on poultry or animals; and a person may, without a prescription or permit, obtain hypodermic needles and syringes from a pharmacist or physician for human use in the administration of insulin or adrenaline, or from a pharmacist, veterinarian, or permit holder, for use on poultry or animals; if all of the following requirements are met:

(a) No needle or syringe shall be furnished to a person who is unknown to the furnisher and unable to properly establish his or her identity.

(b) The furnisher, at the time furnishing occurs, makes a record of the furnishing in the manner required by Section 4147.

(b) Notwithstanding any other provision of law, a pharmacist, physician, or other person designated under the operating procedures developed pursuant to paragraph (1) of subdivision (a) of Section 199.84 of the Health and Safety Code may furnish hypodermic needles and syringes without a prescription or permit when operating under the clean needle and syringe exchange program established pursuant to Chapter 1.18 (commencing with Section 199.83) of Part 1 of Division 1 of the Health and Safety Code.

SEC. 3. Chapter 1.18 (commencing with Section 199.83) is added to Part 1 of Division 1 of the Health and Safety Code, to read:

CHAPTER 1.18. CLEAN NEEDLE AND SYRINGE EXCHANGE PROGRAMS

199.83. (a) The Legislature finds and declares that scientific data from
(b) The programs authorized pursuant to this chapter shall be part of a network of voluntary and confidential HIV services, where available, including, but not limited to, all of the following:

(1) Anonymous HIV antibody testing and counseling.
(2) Notwithstanding Section 199.25, voluntary, anonymous, or confidential partner notification.
(3) Early intervention and ongoing primary medical care followup for infected persons and their partners.
(4) Social services to support families of HIV-infected drug users.
(c) Components of the programs authorized pursuant to this chapter shall be assessed as to their effectiveness by the participating city and county, county, or city. Participants may individually or as a group contract with the University of California to assess the programs. Assessment shall include, but not be limited to, at least four of the following measures:

(1) Incidence of HIV among the subject population to the extent the data is available.
(2) Needle exchange rates.
(3) Change in level of drug use.
(4) Change in level of needle sharing.
(5) Change in use of condoms.
(6) Change in use of bleach.
(7) Program participation rates.
(8) The number of participants entering treatment.
(9) The status of treatment and recovery of those entering substance abuse treatment programs.

(d) All components of the programs authorized pursuant to this chapter shall be voluntary. Where persons are provided services as a part of a program other than the furnishing or exchange of needles, including, but not limited to, antibody testing, counseling, or medical or social services, those provisions of law governing the confidentiality and anonymity of that information shall apply. All information obtained in the course of implementing a program that personally identifies any person to whom needle furnishing and exchange services are provided shall remain confidential and shall not be released to any person or agency not participating in the program without the person's written consent.

(e) If the local health officer determines that a program has a detrimental effect in terms of increased drug use and the increased spread of HIV, the program shall be terminated.

(f) No provision of this section shall apply to the University of California unless the Regents of the University of California by resolution enacted by January 31, 1994, make that provision so applicable.

(g) A city and county, county, or city with a health department conducting a program shall submit a progress report one year from the program's inception, and a final report on or before April 15, 1997. The reports shall take into consideration available data on factors listed in subdivision (c). The report shall be submitted to the State Director of Health Services, the Governor, and the chairs of both health committees of the Legislature.

199.85. This chapter shall remain in effect only until January 1, 1998, and as of that date is repealed, unless a later statute, which is enacted on or before January 1, 1998, deletes or extends that date.
STAFF ANALYSIS OF SENATE BILL 1048 (WATSON)
AS INTRODUCED MARCH 5, 1993

SUBJECT

AIDS: Pilot Needle Exchange Program

INTENT

This measure seeks to establish the Clean Needle and Syringe Exchange Program.

ABSTRACT

Existing law authorizes pharmacist and physicians to furnish hypodermic needles and syringes without a prescription or permit for human use in the administration of insulin or adrenalin.

1. This bill establishes the Clean Needle and Syringe Exchange Pilot Project.

2. Authorizes pharmacists, physicians, and certain persons who are part of the pilot project to furnish hypodermic needles and syringes without a prescription or permit as prescribed through the pilot project.

3. Requires the State Department of Health Services (DHS) to authorize a pilot project in the City and County of San Francisco upon the request of the San Francisco County Board of Supervisors, the Mayor of San Francisco, and the local health officer.

4. Permits DHS to authorize additional counties, cities, or cities and counties to develop a pilot project upon the prescribed request of specified officials of that local jurisdiction.

5. Enumerates the components of the pilot project, to require among other things:

a) The pilot project be part of a network of available voluntary and confidential services.

b) The pilot project includes the development of operating procedures, a specified data base, culturally sensitive community outreach and prevention education, demonstrated effort to provide drug treatment upon request, adequate and appropriate staffing and community involvement in

CONTINUED---
project development which includes local public safety officials.

6. Requires that county, city, or city and county participating in the pilot project assess the project using certain criteria, and submit a progress report and final report that take into consideration data from the assessment to the State Director of DHS, the Governor, and the chairpersons of both health committees of the legislature.

7. Provides, that if the local health officer determines that the pilot project has a detrimental effect on drug use and the increased spread of HIV, the project is to be terminated.


FISCAL IMPACT

Undetermined. However, it is anticipated that there may be minor absorbable costs to the DHS for consulting services that may be required. Also DADP and UC staff may increase their workload minimally, which would not require additional funds or personnel. Potential cost savings to the extent the project prevents the transmission of the HIV virus.

BACKGROUND

Last year (1992) both houses of the legislature authored identical bills to SB 1048 (Senator Watson authored SB 1418 and Assembly Speaker Brown authored the same measure AB 2525). These bills had overwhelming support from across the state. In fact, both of the offices received over 250 letters from individuals and over 75 letters from organizations that were in support of this bill.

Unfortunately, both bills were vetoed by Governor Wilson on September 30, 1992. In his veto message, the Governor quoted the Office of National Drug Control Policy which reported that the "distribution of needles facilitates drug use and undercuts the credibility of society's message that using drugs is illegal and morally wrong. And just as important, there is no conclusive evidence that exchange programs reduce the spread of AIDS."

This measure is sponsored by the City and County of San Francisco and the San Francisco AIDS Foundation. It is intended to decrease the spread of human immunodeficiency (HIV) by permitting the development of needle exchange programs, thus reducing the use of contaminated intravenous injection needles and other "works."

San Francisco has reported that there approximately 16,000 injection drug users, of which 13,000 are heterosexuals and 3,000 are homosexual/bisexual. Injection drug users are the primary source of heterosexual and perinatal transmission of AIDS or HIV in the United States and Europe. Approximately 32 percent of the 195,718 reported AIDS cases in the US have been associated with
injection drug use. Furthermore, the National Commission on AIDS in its report, *Americans Living with AIDS*, has identified needle and syringe exchange and distribution programs as a means of encouraging injection drug users to join treatment programs. Moreover, the California AIDS Leadership Committee in its report, *California's Continuing Response to HIV Disease: A Strategic Plan*, points towards similar conclusions. This report recommended that "legislation should be enacted to allocate resources and modify current statutes to allow the California State Department of Health Services and the State Department of Alcohol and Drug Programs to collaboratively establish pilot paraphernalia exchange programs in California..."

**ARGUMENTS IN SUPPORT**

Needle exchange programs are currently operating in Hawaii, Seattle and Tacoma, Washington, Portland, Oregon and New Haven, Connecticut. A 1991 Yale University study of a state-sponsored needle exchange pilot program reported a 33 percent reduction in new HIV infections just eight months after the program's inception. Preliminary findings showed that the average length of time that dirty needles were in circulation dropped from 2-1/2 weeks to 6 days. The percentage of contaminated needles also dropped from 68 percent to 40 percent.

There are only 11 states in the nation that criminalize the furnishing, possession or use of hypodermic needles or syringes without a prescription. Four of these states have enacted legislation or waived the prohibition administratively to permit the development of needle exchange programs. Of the remaining seven states, California has the highest seroprevalence rate of HIV infection.

**ARGUMENTS IN OPPOSITION**

Opponents of this measure report that the war of drugs is being won and that since 1975 drug use in high school students has decreased. They report that this measure would take a giant leap backwards by giving free needles to the most serious illegal drug users in the state. This measure they report is in total opposition to the "just say no" campaign. It sends a message that drug addiction isn't that bad and AIDS is the only real threat. Since drug addiction is against the law, this group appears to promulgate jail as a compassionate and safer means to eradicate this problem within our state.

CONTINUED---
POSITIONS

SUPPORT: City and County of San Francisco (COSPONSOR)
San Francisco AIDS Foundation (COSPONSOR)
AIDS Project Los Angeles
California Nurses Association
American Civil Liberties Union

OPPOSE: Committee on Moral Concerns
California District Attorneys Association
California State Sheriffs Association (if piloted outside of San Francisco)

#  #  #  #
Board of Supervisors
All County Commissions and Committees
Marin County Employees Retirement Board
Board of Directors, Special Districts
County Administrator
County Department Heads

RE: NEW BROWN ACT - OPEN MEETING REQUIREMENTS
Effective April 1, 1994

FROM: Thomas G. Hendricks, County Counsel

By the enactment of Chapters 1136, 1137 and 1138 of the 1993 Legislative Session, major changes were made in the Brown Act to be effective on April 1, 1994. A number of the changes to the Act (Chapter 9, Division 2, Title 5 of the Government Code, Sections 54950 through 54962; all statutory references hereinafter made shall be to the Government Code as it will read on April 1, 1994) conform to the interpretations given the Act by this office and your Boards, even though not clearly statutorily mandated. Some of the changes, however, are new, explicit directives by the Legislature which necessitate some procedural changes to existing practices which are being brought to your attention by this memorandum.

The format which I believe will be most helpful is a restatement of the law by topic, with the new procedural changes effective April 1, 1994 highlighted. Credit must be given to the Office of County Counsel of Tulare County for originating this method of presentation.

PURPOSE

Section 54950 provides that the actions and deliberations of public bodies created to conduct the public's business are to be taken openly so the people can be fully informed about the conduct of their business and remain in control over their governmental agencies.

APPLICATION

The Act has application to the Board of Supervisors, commissions, committees, boards of any local governmental entity, including standing committees and governing boards of a joint powers entity. The only exception of the application of the Act to a meeting of local officials is with regard to advisory committees composed solely of less than a quorum of the members of the governing body, if such committee does not have continuing
subject matter jurisdiction or a meeting schedule fixed by formal action of the governing body.

The Act applies to persons elected to serve as a member of a governing body even if that person has not yet assumed office.

OPEN MEETING REQUIREMENTS

1. Access: All persons may attend any public meeting without any conditions of attendance such as registering a name, providing other information or completing a questionnaire.

However, section 54953.3 provides that an attendance list, register, questionnaire, or similar document may be provided on a voluntary basis, except that it shall state clearly that the signing or completion of the document is voluntary and that all persons may attend the meeting regardless of whether they sign, register or complete the document.

No public meeting shall be conducted in any facility which prohibits the admittance of any person or persons on the basis of race, religion, creed, national origin, color, ancestry or sex, or which is inaccessible to disabled persons, or where members of the public may not be present without making a payment or purchase.

2. Recording and broadcast of meetings:

Any person attending shall have the right to record the open meeting with an audio or video tape recorder or a still or motion picture camera. The only basis for denial of the recording is if the governing body makes a reasonable finding that the recording cannot continue without noise illumination or obstruction of a view that would constitute a persistent disruption of the proceedings.

Any audio or film record of an open meeting made by or at the direction of the governing board shall be subject to inspection as a public record and any inspection of a video or tape recording so made shall be provided without charge on a tape recorder made available by the local agency. (§54953.5)

No public body may prohibit the broadcast of these proceedings unless it makes a reasonable finding that the broadcast cannot be accomplished without noise illumination or obstruction of a view that would constitute a persistent disruption of the proceedings. (§54953.6)

3. Time and place of regular meetings:

All legislative bodies must designate by formal action the time and place for holding regular meetings. Regular and special meetings shall be held within the boundaries of the local agency except (a) to inspect real property or personal property which cannot be conveniently brought to the agency's boundaries, (b) to
meet with other agencies on common matters, provided the meeting takes place within the boundaries of one of the other agencies, (c) if there is no meeting facility within the boundaries of the local agency, (d) to meet with elected or appointed federal or state officials to discuss a legislative or regulatory issue affecting the agency when a local meeting would be impractical, (e) to meet in or nearby a facility owned by the agency provided the meeting is limited to discussion directly relating to that facility, (f) for a closed session meeting regarding pending litigation held in the office of legal counsel in order to reduce legal fees, and (g) to meet the requirements of law or orders. (§54954)

4. Notice and agenda requirements:

At least 72 hours before a regular meeting, the legislative body must post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting including items to be discussed in closed session, if any. The brief description need not exceed 20 words. The agenda must specify the time and location of the regular meeting and must be posted in a location that is freely accessible to members of the public.

Departures from the posted agenda may be taken only after publicly identifying the items, and only in the following circumstances: (a) upon a determination by a majority vote of the legislative body that an emergency exists as defined in section §54956.5; (b) upon a determination by a two-thirds vote of the legislative body or, if less than two-thirds of the members are present, a unanimous vote that there is a need to take immediate action, and that the need for action came to the attention of the local agency subsequent to the agency being posted; and (c) the item was posted in a previous agenda occurring not more than five calendar days prior to the date action is being taken on the item, and at the prior meeting the item was continued.

5. Special meetings:

A special meeting may be called at any time by the presiding officer of the legislative body or by a majority of the members thereof by delivering personally or by mail written notice to each member of the legislative body and to each media representative which has requested such notice in writing. Unless notice is waived in advance, it must be received at least 24 hours before the time of the meeting and the notice must specify both the time and place of the meeting and the business to be transacted. No other business may be considered at a special meeting except that which is specified in the notice. The notice must be posted at least 24 hours prior to the meeting in a location that is freely accessible to the public.
6. New or increased taxes or assessments:

Before adopting the new or increased general tax or assessment, the legislative body of the county, special district or joint powers authority must conduct at least one public meeting at which public testimony must be allowed regarding the new increased tax or assessment. In addition to the notice of public hearing at which the legislative body proposes to enact or increase the general tax or assessment, public notice of both the meeting and hearing must be given at least 45 days in advance of enactment by publication in a newspaper of general circulation containing specified particulars and a mailing with respect to assessments. This requirement does not apply to any new tax or assessment that requires an election of either the property owners subject to the assessment or the voters within the agency where the tax or assessment is to be levied.

7. Public comment:

Every agenda for regular meetings must provide an opportunity for members of the public to address the legislative body on any item of interest to the public within that body's jurisdiction whether the subject is on the agenda or not. Since no action can be taken on items not appearing on the agenda, except in the limited circumstances outlined above, a board should generally listen to non-agenda matters and not engage in discussion or deliberation. Section 54954.2, however, provides that members of the legislative body may briefly respond to statements made or questions posed by persons exercising their public testimony rights, may ask a question for clarification, provide a reference to staff or other resources for factual information, or request staff to report back to the body at a subsequent meeting regarding any matter. Further, a member of the legislative body or the body itself may take action to direct staff to place a matter of business on a future agenda.

The public body may adopt reasonable regulations assuring the public's right to address the legislative body, including regulations to limit the total amount of time allocated for public testimony on particular issues and for each individual speaker.

Every notice for a special meeting at which action is proposed to be taken shall provide an opportunity for members of the public to address the body concerning that item prior to action.

The legislative body and the local agency shall not prohibit public criticism of the policies, procedures, programs or services of the agency or the acts or omissions of the legislative body. "Nothing in this subdivision shall confer any privilege or protection for expression beyond that otherwise provided by law." (54954.3[c])
8. Written materials:

Section 54957.5 provides that agendas and any other written materials provided to all or a majority of the legislative body by any person either before or during any meeting are required to be made available to the public upon request without delay. Writings distributed during the public meeting which are prepared by the local agency must be given to the public at the meeting or after the meeting if prepared by some other person. A fee may be charged for public records. Section 54957.5, however, does not apply to writings exempt from public disclosure under section 6253.5, 6254 or 6254.7.

9. Secret ballots:

No legislative body shall take action by secret ballot.

10. Adjournment and continuances:

A member of the legislative body, or if none are present, the clerk or secretary of the legislative body, may adjourn any meeting to a time and place specified in the order of adjournment. A copy must be posted on or near the door of the place where the meeting is held within 24 hours after the time of the adjournment.

A meeting may also be continued to a subsequent meeting in the same manner. However, if the continuance is for less than 24 hours, the copy of the notice must be posted immediately following the meeting at which the continuance occurred.

MEETINGS

Perhaps the most significant change effective on April 1, 1994 is a statutory definition of the term "meeting" contained in Section 54952.2. A meeting is defined in the section as:

Any congregation of a majority of the members of a legislative body at the same time and place to hear, discuss or deliberate upon any item that is within the subject matter jurisdiction of the legislative body or the local agency to which it pertains and any use of direct communication, personal intermediaries or technological devices that are employed by a majority of the members of a legislative body to develop a collective concurrence as to action to be taken on an item by the members of the legislative body.
The following congregations are not meetings:

1. Individual contacts or conversations between a member of a legislative body and any other person;

2. The attendance a majority of the members of a legislative body at a conference or similar gathering open to the public that involves a discussion of issues of general interest to the public or to public agencies of the type represented by the legislative body;

3. The attendance of a majority of the members of a legislative body at an open and publicized meeting organized to address a topic of local community concern by a person or organization other than the local agency, provided that a majority of the members do not discuss among themselves business of a specific nature that is within the subject matter of the legislative body;

4. The attendance of a majority of the members at a purely social or ceremonial occasion.

Items 3 and 4 are applicable provided that a majority of the members do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the legislative body.

CLOSED SESSIONS

In recent years, the Legislature has explicitly provided in the Act that no matter how sensitive the information, closed sessions are only allowed for certain limited purposes. Further, the agenda must specify the purpose of the closed session. For example, a closed session authorized by Section 54956.9 for a conference with counsel regarding existing litigation, the agenda must contain the following information:

Conference with legal counsel - existing litigation

Name of case (specify by reference to claimant’s name, names of parties, case or claim numbers) or case name unspecified (specified whether disclosure would jeopardize service of process or existing settlement negotiations)
Closed sessions are authorized only by the following statutes:

(1) Discussion and determination whether an applicant for a license or license renewal who has a criminal record is sufficiently rehabilitated to obtain the license. (§54956.7)

(2) Closed session with negotiator prior to purchase, sale, exchange or lease of real property by or for the local agency to give instructions to its negotiator regarding price and terms of payment for the purchase, sale, exchange or lease. (§54956.8)

(3) Based on advice of legal counsel, holding a closed session to confer with or receive advice from its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the local agency in litigation. Litigation includes any adjudicatory proceeding including eminent domain before court, administrative body, hearing officer, or arbitrator. (§54956.9)

(4) Meetings with the state attorney general, district attorney, sheriff, or chief of police or deputies thereof on matters posing a threat to the security of public buildings or a threat to the public's right of access to public services, or public facilities. (§54957)

(5) To consider the appointment, employment, evaluation of performance or dismissal of a public employee, or to hear complaints or charges brought against the employee by another person or employee unless the employee requests a public session. The employee shall be given written notice of his or her right to have the complaints or charges heard in an open session rather than a closed session, which notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding the session. If notice is not given, any disciplinary or other action taken by the legislative body against the employee based on a specific complaint or charges in a closed session shall be null and void. (§54957)

"Employee" within the meaning of section 54957 shall include an officer or independent contractor who functions as an officer or employee, but shall not include any elected official, member of the legislative body or other independent contractors.

(5) Meetings with the local agency's designated representative regarding salary, salary schedules or compensation paid in the form of fringe benefits of its represented and unrepresented employees and for represented employees any other matters within the statutorily provided scope of representation for the purpose of reviewing its position and instructing the local agency's designated representative. A legislative body of a local agency may also meet with a state facilitator who has intervened in the proceedings. (§54957.6)
Closed sessions held pursuant to this section and the preceding personnel section shall not include discussions of a local agency's available funds, funding priorities or budget.

**PROCEDURAL REQUIREMENTS FOR CLOSED SESSIONS**

As previously stated, 54954.5 and 54954.2 have requirements for putting closed session items on the agenda. In addition to such a requirement, section 54957.7 requires that the legislative body of the local agency must disclose in an open meeting the item or items to be discussed in the closed session (which may take the form of a reference to the item or items as they are listed by number or letter on the agenda). In the closed session, the legislative body may only consider those items covered in its statement.

After a closed session, the legislative body must convene into open session prior to adjournment, and shall make any disclosures required by section 54957.1 of action taken in the closed session.

Section 54957.1 requires the legislative body to publicly report any action taken in closed session in the vote or abstention of every member present as follows: Generally section 54957.1 requires the reporting of the approval in substance of an agreement that is final including real estate negotiations; approval given to the body's legal counsel to initiate or intervene in any action or to defend any litigation or seek or refrain from seeking appellate review or relief and the substance of the litigation was formally initiated; the approval and substance of final settlement of pending litigation; the disposition and substance of tort or workers compensation claims; action taken to appoint if employee dismissed, accept the resignation of or otherwise affect the employment status of a public employee, identifying the title of the position and any change in compensation, except the report of dismissal or non-renewal of an employee shall be deferred until exhaustion of administrative remedies and the approval of an agreement that is final concluding labor negotiations.

The legislative body must provide any person who has made a written request, within 24 hours of the posting of the agenda, or who has made a standing request for all documentation as a part of a request for notice of meetings, if the requestor is present at the time the closed session ends, copies of any contracts, settlement agreements or other documents that were finally approved or adopted in closed session.

**PENALTIES FOR VIOLATION**

1. Criminal: "Each member of the legislative body who attends a meeting of that legislative body where action is taken in violation of any provision of this chapter, with lawful intent
to deprive the public of information to which it is entitled under the chapter, is guilty of a misdemeanor. (§ 54959)

2. Civil: The district attorney or any interested person may commence an action by mandamus, injunction, or declaratory relief for the purpose of stopping or preventing violations or threatened violations of the Act by members of the legislative body or to determine the applicability of the Act to actions or threatened future actions of the legislative body, or to determine the validity under the laws of this state or of the United States of any rule or action by the legislative body or penalize or otherwise discourage the expression of one or more of its members, or to compel the legislative body to tape record in closed sessions as hereinafter provided.

The court in its discretion may, upon a judgment of a violation of sections 54956.7, 54956.8, 54956.9, 54956.95, 54957, or 54957.6 order the legislative body to tape record its closed sessions and preserve the tape recordings for the period and under the terms of security and confidentiality the court deems appropriate.

Section 54960.1 provides that the district attorney or any interested person may commence an action by mandamus or injunction for the purpose of obtaining a judicial determination that an action taken by a legislative body of a local agency in violation of section 54953, 54954.2, 54954.5, 54954.6 or 54956 is null and void under this section. (However, the local agency may cure or correct an action challenged pursuant to this section.)

Prior to any action being taken, a demand may be made to the legislative body to cure or correct the action alleged to have been taken in violation of the sections. The demand shall be in writing and clearly describe the challenged action and must be made within ninety (90) days from the date the action was taken unless the action was taken in an open session but in violation of section 54954.2 in which case the written demand shall be made within thirty (30) days from the date the action was taken. (You will remember that Section 54954.2 relates to the agenda.)

Costs and attorneys fees may be required to be paid by the local agency or by the plaintiff where the defendant has prevailed in a final determination of the action and the court finds that the action was clearly frivolous and totally lacking in merit.

I apologize for the length of this memorandum which, in spite of its length, is not complete with respect to all the changes in 1993 to the Act. (See, for example, Section 54961—joint powers provisions; Section 54956.95—emergency meetings in emergency situations; video teleconferencing contained in Section 54953; and other provisions which may have escaped our attention.)