

**CITY OF OAKLAND**  
**BILL ANALYSIS**



2010 JUN 24 PM 4:46

Date: July 8, 2010

Bill Number: AB1532

Bill Author: Assembly Member Ted Lieu (D)

**DEPARTMENT INFORMATION**

Contact: Clara Garzon

Department: City Council Office – District 6

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**RECOMMENDED POSITION: SUPPORT**

**Summary of the Bill:**

**Assembly Bill 1532** was introduced by Assembly Member Lieu on February 27, 2009; amended in Assembly twice: April 14, 2009 and January 4, 2010; amended in Senate on February 24, 2010. The bill was set for a second reading to the Senate Committee on Public Safety on June 15, 2010. The bill passed with 7-ayes, 0-noes. A third reading is scheduled to go before the Senate Rules Committee on June 23, 2010.

The purpose of this bill is to create a stand-alone section of the Penal Code defining a code enforcement officer. Existing law concerning assault and battery defines a "code enforcement officer" as any person who is not a peace officer, and who is employed by any governmental subdivision, public or quasi-public corporation, public agency, public service corporation, any town, city, county, or municipal corporation, whether incorporated or chartered, that has enforcement authority for health, safety, and welfare requirements, and whose duties include enforcement of any statute, rules, regulations, or standards, and who is authorized to issue citations, or file formal complaints. A code enforcement officer also includes any person who is employed by the Department of Housing and Community Development who has enforcement authority for health, safety, and welfare requirements, pursuant to the Employment Housing Act; the State Housing Law, the Mobilehomes-Manufactured Housing Act; the Mobilehome Parks Act; and the Special Occupancy Parks Act. [Penal Code Sections 241 (d) (9) (A) and (B), and 243 (f) (11) (A) and (B).]

AB 1532 would define the term "code enforcement officer" in the Penal Code as described above *without* limiting the definition to the context of assault and battery committed against a code enforcement officer.

Item: \_\_\_\_\_  
Rules & Legislation Comte.  
July 8, 2010

According to Assembly Member Lieu, there are a number of pieces of federal legislation that contemplate giving federal grants for local code enforcement functions. Virtually every jurisdiction performs code enforcement functions; however, many jurisdictions lack a definition of code enforcement functions. Consequently, those jurisdictions are disadvantaged in the effort to obtain federal funding for code enforcement purposes. Thus, AB1532 establishes a free-standing definition for code enforcement officers that can be used by any local jurisdiction, including the City of Oakland, in their application for code enforcement funding.

According to information provided by the author, California lacks a free-standing definition for code enforcement officers that a local jurisdiction could reference in applications for code enforcement funding; thus, placing government entities at a disadvantage in seeking federal funding that is available through competitive grant processes. Currently, funds for code enforcement can be made available from Byrne JAG Grant funding, Regional Information Sharing Systems (RISS) funding, federal COPS funding, Byrne Discretionary funding, Byrne Competitive Grants, Community Development Block Grants (CDBG) and possibly through legislation introduced by Louisiana Senator Mary Landrieu.

AB1532 establishes a free-standing definition and is verbatim from current law (Penal Code Sec. 241 and 243). This bill is not intended to expand the powers of code enforcement officers, but merely provide a definition and enable local jurisdiction in California, such as the City of Oakland, to compete with other jurisdictions for needed code enforcement grants.

**Positive Factors for Oakland:**

- If AB1532 is enacted as amended, it would establish a free-standing definition for code enforcement officers that can be used by any local jurisdiction, including the City of Oakland, in their application for code enforcement funding.
- This bill is not intended to expand the powers of code enforcement officers, but merely provide a definition and enable local jurisdiction in California, such as the City of Oakland, to compete with other jurisdictions for needed code enforcement grants.
- The work of a code enforcement officer involves major quality of life issues that have significant public safety dimension. If this bill is enacted, it will help ensure that our code enforcement officers continue their duties in the job of ensuring compliance with policies, codes, rules, regulations, and permits in a proper, timely fashion within the limits of the law.

**Negative Factors for Oakland:** None known at this time.

**PLEASE RATE THE EFFECT OF THIS MEASURE ON THE CITY OF OAKLAND:**

**Critical** (top priority for City lobbyist, city position required ASAP);

**Very Important** (priority for City lobbyist, city position necessary); *AB1532 would declare that it is to take effect immediately as an urgency statute.*

**Somewhat Important** (City position desirable if time and resources are available)

**Minimal or**  **None** (do not review with City Council, position not required)

**Known support:**

California Association of Code Enforcement Officers  
California Peace Officers Association  
California Police Chiefs Association  
California Narcotic Officers Association

**Known Opposition:**

None known at this time.

**Attach bill text and state/federal legislative committee analysis, if available.**

Respectfully Submitted,



Clara Garzon, Assistant to  
Council Member Desley Brooks  
District 6

Item: \_\_\_\_\_  
Rules & Legislation Comte.  
July 8, 2010

**DRAFT**

Approved as to Form and Legality

\_\_\_\_\_  
City Attorney's Office

**OAKLAND CITY COUNCIL**

**RESOLUTION No. \_\_\_\_\_ C.M.S.**

**INTRODUCED BY COUNCIL MEMBER DESLEY BROOKS**

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**A Resolution In Support Of Amended Assembly Bill 1532 Authored by Assembly Member Lieu, Which Adds A Separate Section To The Existing California Penal Code's Definition Of A Code Enforcement Officer, By Establishing a Free-Standing Definition For Code Enforcement Officers That Can Be Used By Any Local Jurisdiction In Their Application For Code Enforcement Funding**

**WHEREAS**, Code enforcement is a process whereby local governments use various techniques to gain compliance with duly-adopted regulations such as land-use and zoning ordinances, health and safety codes, sign standards, substandard housing, property maintenance, and uniform building and fire codes; and

**WHEREAS**, code enforcement involves local enforcement officials in the job of ensuring compliance with policies, codes, rules, regulations, and permits in a proper, timely fashion within the limits of the law; code enforcement officers enforce the regulations and standards of state and local governments and are responsible for investigating violations and requiring compliance with the law; and

**WHEREAS**, existing law concerning assault and battery defines a "code enforcement officer" as any person who is not a peace officer, and who is employed by any governmental, and who is employed by any governmental subdivision, public or quasi-public corporation, public agency, public service corporation, any town, city, county, or municipal corporation, whether incorporated or chartered, that has enforcement authority for health, safety, and welfare requirements, and whose duties include enforcement of any statute, rules, regulations, or standards, and who is authorized to issue citations, or file formal complaints (Penal Code Sec. 241 and 243); and

**WHEREAS**, the existing definition of a code enforcement officer also includes any person who is employed by the Department of Housing and Community Development who has enforcement authority for health, safety, and welfare requirements, pursuant to the Employment Housing Act; the State Housing Law, the Mobilehomes-Manufactured Housing Act; the Mobilehome Parks Act; and the Special Occupancy Parks Act. [Penal Code Sections 241 (d) (9) (A) and (B), and 243 (f) (11) (A) and (B).]; and

**WHEREAS**, Assembly Bill 1532 was introduced by Assembly Member Lieu for the purpose of creating a stand-alone section of the Penal Code defining a code enforcement officer; and

**WHEREAS**, AB 1532 would define the term "code enforcement officer" in the Penal Code as described above *without* limiting the definition to the context of assault and battery committed against a code enforcement officer; and

**WHEREAS**, according to Assembly Member Lieu, there are a number of pieces of federal legislation that contemplate giving federal grants for local code enforcement functions, and that virtually every jurisdiction performs code enforcement functions; however, many jurisdictions lack a definition of code enforcement functions; and

\_\_\_\_\_  
City Attorney's Office

**WHEREAS**, California lacks a free-standing definition for code enforcement officers that a local jurisdiction could reference in applications for code enforcement funding; thus, placing government entities at a disadvantage in seeking federal funding that is available through competitive grant processes; and

**WHEREAS**, currently, funds for code enforcement can be made available from Byrne JAG Grant funding, Regional Information Sharing Systems (RISS) funding, federal COPS funding, Byrne Discretionary funding, Byrne Competitive Grants, Community Development Block Grants (CDBG) and possibly through legislation introduced by Louisiana Senator Mary Landrieu; and

**WHEREAS**, the work of a code enforcement officer involves major quality of life issues that have significant public safety dimension. If this bill is enacted, it will help ensure that our code enforcement officers continue their duties in the job of ensuring compliance with policies, codes, rules, regulations, and permits in a proper, timely fashion within the limits of the law; now, therefore, be it

**RESOLVED:** that AB1532 establishes a free-standing definition and is verbatim from current law (Penal Code Sec. 241 and 243), and that the bill is not intended to expand the powers of code enforcement officers, but merely provide a definition and enable local jurisdiction in California, including the City of Oakland, to compete with other jurisdictions for needed code enforcement grants; and be it

**FURTHER RESOLVED:** that the City of Oakland supports amended Assembly bill 1532, which adds a separate section to the existing California Penal Code's definition of a code enforcement officer, by establishing a free-standing definition for code enforcement officers that can be used by any local jurisdiction, in their application for code enforcement funding.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2010

**PASSED BY THE FOLLOWING VOTE:**

AYES- BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, and  
PRESIDENT BRUNNER

NOES-

ABSENT-

ABSTENTION-

ATTEST: \_\_\_\_\_  
LATONDA SIMMONS  
City Clerk and Clerk of the Council  
of the City of Oakland, California

## CURRENT BILL STATUS

MEASURE : A.B. No. 1532  
AUTHOR(S) : Lieu.  
TOPIC : Code enforcement officers.  
HOUSE LOCATION : SEN  
+LAST AMENDED DATE : 02/24/2010

## TYPE OF BILL :

Active  
Urgency  
Non-Appropriations  
2/3 Vote Required  
Non-State-Mandated Local Program  
Non-Fiscal  
Non-Tax Levy

LAST HIST. ACT. DATE: 06/16/2010  
LAST HIST. ACTION : Read second time. To third reading.  
FILE : SEN THIRD READING  
FILE DATE : 06/23/2010  
ITEM : 75

COMM. LOCATION : SEN PUBLIC SAFETY  
COMM. ACTION DATE : 06/15/2010  
COMM. ACTION : Do pass.  
COMM. VOTE SUMMARY : Ayes: 07 Noes: 00 PASS

TITLE : An act to add Chapter 4.2 (commencing with Section 829.5) to Title 3 of Part 2 of the Penal Code, relating to code enforcement officers, and declaring the urgency thereof, to take effect immediately.

AMENDED IN SENATE FEBRUARY 24, 2010  
AMENDED IN ASSEMBLY JANUARY 4, 2010  
AMENDED IN ASSEMBLY APRIL 14, 2009  
CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1532**

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**Introduced by Assembly Member Lieu**

February 27, 2009

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An act to add Chapter 4.2 (commencing with Section 829.5) to Title 3 of Part 2 of the Penal Code, relating to code enforcement officers, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1532, as amended, Lieu. Code enforcement officers.

Existing law defines the term "code enforcement officer" for purposes of determining the punishment for an assault or battery committed against a code enforcement officer as a person who is not a peace officer, has enforcement authority ~~in specified areas~~ *for health, safety, and welfare requirements*, and is authorized to issue citations or file formal complaints, *as specified*.

This bill would define the term "code enforcement officer" in the Penal Code as described above without limiting the definition to the context of assault and battery committed against a code enforcement officer.

*This bill would declare that it is to take effect immediately as an urgency statute.*

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

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

1 SECTION 1. Chapter 4.2 (commencing with Section 829.5)  
2 is added to Title 3 of Part 2 of the Penal Code, to read:

3

4

CHAPTER 4.2. CODE ENFORCEMENT OFFICERS

5

6 829.5. (a) "Code enforcement officer" means any person who  
7 is not described in Chapter 4.5 (commencing with Section 830) of  
8 Title 3 of Part 2 and who is employed by any governmental  
9 subdivision, public or quasi-public corporation, public agency,  
10 public service corporation, any town, city, county, or municipal  
11 corporation, whether incorporated or chartered, who has  
12 enforcement authority for health, safety, and welfare requirements,  
13 and whose duties include enforcement of any statute, rules,  
14 regulations, or standards, and who is authorized to issue citations,  
15 or file formal complaints.

16 (b) "Code enforcement officer" also includes any person who  
17 is employed by the Department of Housing and Community  
18 Development who has enforcement authority for health, safety,  
19 and welfare requirements pursuant to the Employee Housing Act  
20 (Part 1 (commencing with Section 17000) of Division 13 of the  
21 Health and Safety Code); the State Housing Law (Part 1.5  
22 (commencing with Section 17910) of Division 13 of the Health  
23 and Safety Code); the Mobilehomes-Manufactured Housing Act  
24 (Part 2 (commencing with Section 18000) of Division 13 of the  
25 Health and Safety Code); the Mobilehome Parks Act (Part 2.1  
26 (commencing with Section 18200) of Division 13 of the Health  
27 and Safety Code); and the Special Occupancy Parks Act (Part 2.3  
28 (commencing with Section 18860) of Division 13 of the Health  
29 and Safety Code).

30 *SEC. 2. This act is an urgency statute necessary for the*  
31 *immediate preservation of the public peace, health, or safety within*  
32 *the meaning of Article IV of the Constitution and shall go into*  
33 *immediate effect. The facts constituting the necessity are:*

34 *In order to provide a free-standing definition of "code*  
35 *enforcement officer" for purposes of obtaining federal funding for*



- 1 *code enforcement purposes, it is necessary that this act take effect*
- 2 *immediately.*

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BILL ANALYSIS

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SENATE RULES COMMITTEE	AB 1532
Office of Senate Floor Analyses	
1020 N Street, Suite 524	
(916) 651-1520 Fax: (916)	
327-4478	
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THIRD READING

Bill No: AB 1532  
Author: Lieu (D)  
Amended: 2/24/10 in Senate  
Vote: 27 - Urgency

SENATE PUBLIC SAFETY COMMITTEE : 7-0, 6/15/10  
AYES: Leno, Cogdill, Cedillo, Hancock, Huff, Steinberg,  
Wright

ASSEMBLY FLOOR : 71-0, 1/19/10 (Consent) - See last page  
for vote

SUBJECT : Code enforcement officers

SOURCE : California Association of Code Enforcement  
Officers

DIGEST : This bill creates a stand-alone section of the  
Penal Code defining a code enforcement officer:

ANALYSIS : Existing law concerning assault and battery  
defines a code enforcement officer as any person who is not  
a peace officer and who is employed by any governmental

subdivision, public or quasi-public corporation, public agency, public service corporation, any town, city, county, or municipal corporation, whether incorporated or chartered, that has enforcement authority for health, safety, and welfare requirements, and whose duties include enforcement of any statute, rules, regulations, or standards, and who is authorized to issue citations, or

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file formal complaints. A "code enforcement officer" also includes any person who is employed by the Department of Housing and Community Development who has enforcement authority for health, safety, and welfare requirements pursuant to the Employee Housing Act; the State Housing Law; the Mobilehomes-Manufactured Housing Act; the Mobilehome Parks Act; and the Special Occupancy Parks Act. (Penal Code Sections 241, subdivision (d)(9)(A) and (B), and 243, subdivision (f)(11)(A) and (B).)

This bill enumerates a separate Penal Code section for the existing definition of a "code enforcement officer," apart from the reference in the assault and battery provisions.

FISCAL EFFECT : Appropriation: No Fiscal Com.: No  
Local: No

SUPPORT : (Verified 6/16/10)

California Association of Code Enforcement Officers  
(source)  
California Narcotic Officers Association  
California Peace Officers Association  
California Police Chiefs Association

ARGUMENTS IN SUPPORT : According to the author's office, "There are a number of pieces of federal legislation that contemplate giving federal grants for local code

enforcement functions. Virtually every jurisdiction performs code enforcement functions; however, many jurisdictions lack a definition of code enforcement functions. As a consequence, those jurisdictions are disadvantaged in the effort to obtain federal funding for code enforcement purposes. AB 1532 establishes a free-standing definition for code enforcement officers that can be used by any local jurisdiction in their application for code enforcement funding."

California lacks a free-standing definition for code enforcement officers that a local jurisdiction could reference in applications for code enforcement funding. This bill establishes this free-standing definition and is verbatim from current law (Penal Code Sec. 241 and 243).

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This bill is not intended to expand the powers of code enforcement officers, but just merely provide a definition so that California jurisdictions may compete on an even playing field in securing federal dollars.

The sponsor and the author's office submit that California government entities are losing opportunities for federal funding and grants because California law does not include a stand-alone definition of a code enforcement officer. According to the sponsor, "[The fact that California does not have a free-standing definition of code enforcement] has placed local agencies at a disadvantage in seeking federal money that is available through competitive grant processes. Currently, funds for code enforcement can be made available from Byrne JAG Grant funding, Regional Information Sharing Systems (RISS) funding, federal COPS funding, Byrne Discretionary funding, Byrne Competitive Grants, Community Development Block Grants (CDBG) and possibly through legislation introduced by Louisiana Senator Mary Landrieu."

ASSEMBLY FLOOR :

AYES: Adams, Ammiano, Anderson, Arambula, Beall, Bill  
Berryhill, Tom Berryhill, Blakeslee, Block, Blumenfield,  
Bradford, Buchanan, Caballero, Chesbro, Conway, Cook,  
Coto, De La Torre, De Leon, DeVore, Emmerson, Eng, Evans,  
Feuer, Fletcher, Fong, Fuentes, Fuller, Furutani, Gaines,  
Galgiani, Garrick, Gilmore, Hagman, Harkey, Hayashi,  
Hernandez, Hill, Huber, Huffman, Jeffries, Jones, Knight,  
Lieu, Logue, Ma, Mendoza, Miller, Monning, Nava,  
Nestande, Niello, Nielsen, John A. Perez, V. Manuel  
Perez, Portantino, Ruskin, Salas, Saldana, Silva,  
Skinner, Smyth, Solorio, Audra Strickland, Swanson,  
Torlakson, Torres, Torrico, Tran, Villines, Yamada  
NO VOTE RECORDED: Brownley, Charles Calderon, Carter,  
Davis, Hall, Bonnie Lowenthal, Bass

RJG:do 6/16/10 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

\*\*\*\* END \*\*\*\*

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## COMPLETE BILL HISTORY

BILL NUMBER : A.B. No. 1532  
 AUTHOR : Lieu  
 TOPIC : Code enforcement officers.

## TYPE OF BILL :

Active  
 Urgency  
 Non-Appropriations  
 2/3 Vote Required  
 Non-State-Mandated Local Program  
 Non-Fiscal  
 Non-Tax Levy

## BILL HISTORY

2010

June 16 Read second time. To third reading.  
 June 15 From committee: Do pass. (Ayes 7. Noes 0.) (June 15).  
 June 3 In committee: Set, first hearing. Hearing canceled at the request of author.  
 Feb. 24 From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on PUB. S.  
 Feb. 4 Referred to Com. on PUB. S.  
 Jan. 19 In Senate. Read first time. To Com. on RLS. for assignment.  
 Jan. 19 Read third time, passed, and to Senate. (Ayes 71. Noes 0. Page 3816.)  
 Jan. 14 Read second time. To Consent Calendar.  
 Jan. 13 From committee: Do pass. To Consent Calendar. (January 12).  
 Jan. 7 From committee: Be re-referred to Com. on PUB. S. Re-referred. (Ayes 10. Noes 0.) (January 7).  
 Jan. 4 From committee chair, with author's amendments: Amend, and re-refer to Com. on HUM. S. Read second time and amended. Re-referred to Com. on HUM. S. Re-referred to Com. on RULES. pursuant to Assembly Rule 96.

2009

July 1 In committee: Set, second hearing. Hearing canceled at the request of author.  
 May 12 In committee: Set, first hearing. Hearing canceled at the request of author.  
 Apr. 16 Re-referred to Com. on HUM. S.  
 Apr. 14 From committee chair, with author's amendments: Amend, and re-refer to Com. on HUM. S. Read second time and amended.  
 Apr. 13 Referred to Com. on HUM. S.  
 Mar. 2 Read first time.  
 Mar. 1 From printer. May be heard in committee March 30.  
 Feb. 27 Introduced. To print.