

Staff Report

TO: Honorable Mayor and Members of the Town Council
FROM: Sean Rabé, Town Manager
DATE: September 8, 2020
RE: 2019-20 Placer County Grand Jury Report Response

Recommendation

Staff recommends the Town Council approve the attached response to the 2019-20 Placer County Grand Jury report response and authorize Mayor Clark-Crets to sign the response.

Issue Statement and Discussion

The Placer County Grand Jury is a volunteer body of 15 citizens, selected at random from a pool of nominees, to investigate local governmental agencies and make recommendations to improve the efficiency of local government. The 2019-20 Grand Jury report contains findings and recommendations that the Town of Loomis is required to respond to. The section of the 2019-20 report impacting the Town, titled "Access to Agendas," is attached (Attachment C).

Staff has prepared the attached response (Attachment A) for Council's approval. The Grand Jury found the Town's website did not comply with AB 2257, which included new requirements for posting meeting agendas on local agency websites. It also requires the agenda be retrievable, downloadable, searchable and indexable, and adds additional requirements governing the location, platform, and methods by which an agenda must be accessible.

However, the Grand Jury reviewed the *old* website. The new website, which was updated and launched June 25, 2020, is fully compliant with AB 2257. The Town's response is reflective of that update.

Staff is prepared to answer any questions you may have.

CEQA Requirements

There are no CEQA implications associated with the recommended action.

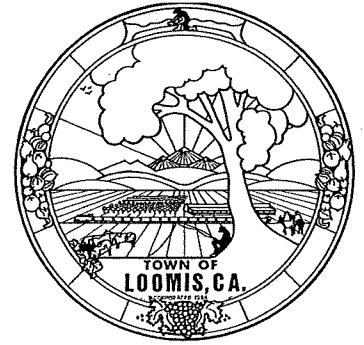
Financial and/or Policy Implications

None.

Attachments

- A. Draft Response Letter to Judge Pineschi
- B. Response to Grand Jury Form
- C. 2019-20 Placer County Grand Jury Report, "Access to Agendas"

TOWN OF LOOMIS



September 8, 2020

The Honorable Alan V. Pineschi Presiding Judge of the Superior Court
County of Placer
P.O. Box 619072
Roseville, CA 95661

Honorable Judge Pineschi,

The Town of Loomis and mayor Jan Clark-Crets has received the 2019-2020 Placer County Grand Jury report titled, "Access to Agendas." The Town was requested to submit a response to the findings and recommendations of the report no later than October 1, 2020.

The Town of Loomis agrees with Finding F6:

The Town of Loomis website does not provide a prominent, direct link to the current City Council meeting agenda, nor does it provide a direct link to an agenda management platform listing of the City Council meeting agendas. The agenda for the Town of Loomis is not searchable for specific terms. Therefore, it does not comply with AB 2257.

It should be noted that the Town website used by the Grand Jury has been completely updated. The new website, which launched June 25, 2020, now complies with AB 2257. Therefore, the Town of Loomis agrees with Recommendation R6:

The Town of Loomis update its website by incorporating a prominent, direct link to the current City Council meeting agenda or list of city council agendas and ensure that the posted agenda is searchable by October 1, 2020. If the link is to a list of agendas, they must list the most recent agenda first.

Jan Clark-Crets
Mayor, Town of Loomis

INSTRUCTIONS FOR RESPONDENTS

The legal requirements affecting respondents and responses to Grand Jury findings and recommendations are contained in California Penal Code § 933.05. The full text of the law is provided at the end of this document.

Two different time periods for responses, and to whom you must respond is defined in California Penal Code § 933(c). They are as follows:

Type of Agency	Time Frame	To Whom
Government Boards	Ninety (90) Days	<ul style="list-style-type: none"> • Presiding Judge of the Superior Court
Elective Office, or Agency Head	Sixty (60) Days	<ul style="list-style-type: none"> • Presiding Judge of the Superior Court • Information copy to Board of Supervisors

An original signed copy of the response must be provided to both of the following:

1. Presiding Judge of the Placer County Superior Court at the address listed below:

The Honorable Alan V. Pineschi
 Presiding Judge of the Superior Court
 County of Placer
 P.O. Box 619072
 Roseville, CA 95661

2. Placer County Grand Jury at the address listed below:

Placer County Grand Jury
 11532 B Avenue
 Auburn, CA 5603

When responding to more than one report, respondents must respond to each report separately.

You are encouraged to use the Response to Grand Jury Report Form, attached, to help format and organize your response. An electronic version of the form is available upon request from the Grand Jury.

RESPONSE TO GRAND JURY REPORT FORM

Report Title: Access to Agendas

Report Date: 2019-2020

Response By: Loomis Town Council Title: _____

FINDINGS

- I (we) agree with the findings, numbered: F6.
- I (we) disagree wholly or partially with the findings, numbered: _____.
(Describe here or attach a statement specifying any portions of the findings that are disputed or not applicable; include an explanation of the reasons therefore.)

RECOMMENDATIONS R6 (See Attached)

- Recommendations numbered _____ *have been implemented.*
(Describe here or attach a summary statement regarding the implemented actions.)
- Recommendations numbered _____ *have not yet been implemented, but will be implemented in the future.*
(Per Penal Code § 933.05(b)(2), a time frame for implementation must be included. Describe here or in an attachment.)
- Recommendations numbered _____ *require further analysis.*
(Describe here or attach an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or director of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six (6) months from the date of publication of the grand jury report.)
- Recommendations numbered _____ *will not be implemented because they are not warranted or are not reasonable.*
(Describe here or attach an explanation.)

Date: 9/8/2020 Signed: _____

Number of pages attached 1

CALIFORNIA PENAL CODE

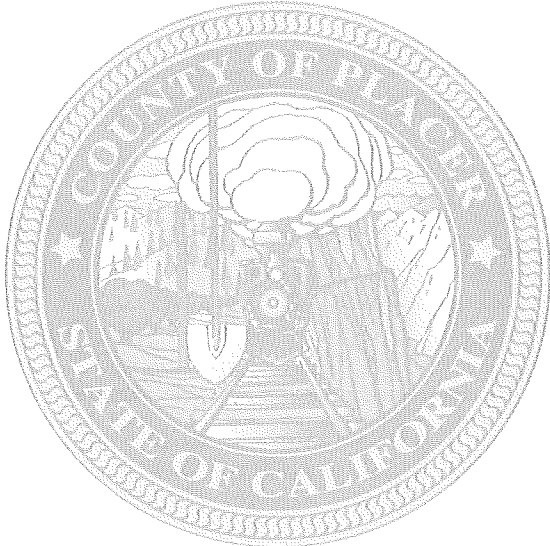
Code § 933.05

- (a) For purposes of subdivision (b) of Penal Code § 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:
 - (1) The respondent agrees with the finding.
 - (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore.
- (b) For purposes of subdivision (b) of Penal Code § 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:
 - (1) The recommendation has been implemented, with a summary regarding the implemented action.
 - (2) The recommendation has not yet been implemented, but will be implemented in the future, *with a timeframe for implementation*.
 - (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.
 - (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefore.
- (c) However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decision-making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.
- (d) A grand jury may request a subject person or entity to come before the grand jury for the purpose of reading and discussing the findings of the grand jury report that relates to that person or entity in order to verify the accuracy of the findings prior to their release.
- (e) During an investigation, the grand jury shall meet with the subject of that investigation regarding the investigation, unless the court, either on its own determination or upon request of the foreperson of the grand jury, determines that such a meeting would be detrimental.
- (f) A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after the approval of the presiding judge. No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report.



Access to Agendas

**County Board of Supervisors,
City and Town Councils**



Access to Agendas: County Board of Supervisors, City and Town Councils

Summary

California enacted Assembly Bill 2257, codified in California Government Code § 54954.2 requiring all legislative bodies, such as city councils and boards of supervisors, to have a prominent, direct link to their agenda on their website's homepage and other specific requirements related to the listing of that agenda after January 1, 2019. The Placer County Grand Jury investigated compliance with this legislation for the Placer County Board of Supervisors, the City Councils of Auburn, Colfax, Lincoln, Roseville, and Rocklin and the Town Council of Loomis. We found that only the City of Colfax was fully compliant as of February 2020. The grand jury recommends that the non-compliant legislative bodies update their websites to comply with the current requirements.

Methodology

The grand jury viewed the websites for Placer County, Auburn, Colfax, Lincoln, Roseville, Rocklin, and Loomis to determine if each complies with the new legislation. Each website was viewed by the grand jury numerous times over a three-week period during February to verify and validate the findings.

Discussion

The California State Legislature passed The Ralph M. Brown Act (California Government Code § 54950) in 1953. The Brown Act applies to the legislative bodies of local agencies in California, including city and county government agencies, school districts, and special districts. Under current law, the legislative body of a local agency must post an agenda that specifies the time and location of an upcoming meeting and briefly describes the items of business to be discussed at least 72 hours before a regular meeting or 24 hours before a special meeting. The agenda must be posted in a physical location freely accessible to members of the public and on the agency's website, if it has one.

In 2016, the California State Legislature enacted Assembly Bill 2257 (California Government Code § 54954.2) updating the Brown Act with new requirements for posting meeting agendas on local agency websites. It also requires the agenda be retrievable, downloadable, searchable and indexable, and adds additional requirements governing the location, platform, and methods by which an agenda must be accessible.

The grand jury looked at how easy it is for the public to access the meeting agendas for the county board of supervisors and the councils of Auburn, Colfax, Lincoln, Roseville, Rocklin, and Loomis.

The first element of interest is access to the agenda itself. The law requires there to be a prominent, direct link to the agenda on the home page.

There are two similar, specific requirements based on whether or not the legislative body uses an integrated agenda management platform (IAMP) to manage the content of their website:

- California Government Code § 54954.2. (a) (2) (A) requires that a prominent, direct link is on the home page and not within a contextual menu.
- For legislative bodies using an IAMP, California Government Code § 54954.2. (a) (2) (C) (i) requires a prominent, direct link to the IAMP list of agendas on the home page and not within a contextual menu.

For those agencies using an IAMP, the most recent agenda must be shown at the top of a list of agendas. This requirement does not apply to legislative bodies not using an IAMP, because the direct link will display the current agenda.

The grand jury interprets the language in AB 2257 to mean the following:

- *Retrievable*: the agenda can be viewed using commonly available web browsers.
- *Downloadable*: the agenda can be downloaded to a computer.
- *Searchable*: the agenda document can be searched for specific terms using the search-on-the-page function provided in browsers.
- *Indexable*: commonly used search engines will respond to a search with the agenda for that legislative body.

The grand jury found that Placer County, Auburn, Lincoln, Roseville and Rocklin each use an IAMP. Neither Colfax nor Loomis appears to use an IAMP.

The grand jury found that the Colfax website complies with AB 2257. The grand jury acknowledges and commends the city for providing additional value to its citizens by offering a subscription service to the agendas.

Placer County’s home page contains a prominent, direct agenda link under the Board of Supervisors section on a button labeled “Agendas & Summaries”; however, the list of agendas does not list the most recent agenda first as required.

Prominent, Direct Link

The grand jury found that the home pages for Auburn, Lincoln, Roseville, Rocklin, and Loomis do not contain a prominent, direct link to the current agenda or an agenda list.

- Auburn provides a link to a page that lists meetings for the city council and other city agencies. A second click is required to open the agenda from the list.
- Lincoln provides a direct link to the agenda, which we commend, but it is in a small, gray font at the top of the page and therefore not prominent.
- The Roseville and Rocklin home pages each provide a link to a page with an array of different city functions including the city council. Clicking on the city council link results in having to scroll down to a list of meetings for multiple city agencies including the city council. Though a search function is available at the top of that page, access to the city council agenda is not a simple direct link as required.

Agenda Listing Order

The grand jury found that Auburn, Lincoln, Roseville and Rocklin technically comply with the requirement of listing the most recent agenda first. However, these cities mix the agendas for the city council with the agendas for other city agencies, such as the planning commission. A search capability is provided to allow narrowing the display of agendas, but this occupies most of the page when it loads, making it more difficult to find the city council agenda. The grand jury interprets this as contrary to the intent of AB 2257.

Searchability

The grand jury found that the agenda posted on the website for Loomis does not comply with the section of AB 2257 that requires the agenda be electronically searchable. The Loomis agenda is a document type that is not searchable for specific terms using the search-on-the-page function provided in all browsers. The other governing bodies comply with this requirement.

Indexability

The grand jury found that indexing of agendas may not occur due to the nature of search engines.

The agenda for any *specific date* may not be indexed and found with commonly used search engines such as Google, DuckDuckGo, or Bing. The Brown Act requires that the agenda be available at least 72 hours prior to the meeting. This is insufficient time to guarantee that the agenda would be found by search engines.

Searching for an agenda of a specific date did not find that specific agenda, confirming the grand jury's understanding of the limits of search engines within the 72-hour posting requirement. Based on these results, the grand jury concludes that Placer County and the local councils all meet the intent of being indexable.

Conclusion

The grand jury found that the website for Colfax complies with AB 2257 and commends the city for their efforts to stay updated with the current law and to provide additional value to the citizens by offering an agenda subscription service.

The websites of the other legislative bodies do not comply with AB 2257.

Compliance Chart

Organization	Compliant w/ Agenda Listing Req't	Current Agenda Listed First (IAMP only)	Ability to Download Agenda	Ability to Print Agenda	Ability to Search the Agenda for specific topic or word	Compliant
Section	549524.2 (a)(2)(A)	549524.2 (a)(2)(C)(iii)	549524.2 (a)(2)(B)(i)	549524.2 (a)(2)(B)(i)	549524.2 (a)(2)(B)(i)	
County of Placer	No	No	Yes	Yes	Yes	No
City of Auburn	No	Yes	Yes	Yes	Yes	No
City of Colfax	Yes	Does Not Apply	Yes	Yes	Yes	Yes
City of Lincoln	No	Yes	Yes	Yes	Yes	No
City of Roseville	No	Yes	Yes	Yes	Yes	No
City of Rocklin	No	Yes	Yes	Yes	Yes	No
Town of Loomis	No	Does Not Apply	Yes	No	No	No

Findings

The grand jury finds:

- F1: The City of Colfax complies with AB 2257 and offers the convenience of an agenda subscription service.
- F2: The Placer County website provides a prominent, direct link to the current Board of Supervisors meeting agenda. The listing of the Board of Supervisors meeting agendas is not sorted in reverse chronological order; therefore, it does not comply with AB 2257.
- F3: The City of Auburn website does not provide a prominent, direct link to the current City Council meeting agenda, nor does it provide a direct link to an agenda management platform listing of City Council meeting agendas; therefore, it does not comply with AB 2257.
- F4: The City of Lincoln website does not provide a prominent link to the current City Council meeting agenda; therefore, it does not comply with AB 2257.
- F5: The City of Roseville website does not provide a prominent, direct link to the current City Council meeting agenda, nor does it provide a direct link to an agenda management platform listing of the City Council meeting agendas; therefore, it does not comply with AB 2257.
- F5: The City of Rocklin website does not provide a prominent, direct link to the current City Council meeting agenda, nor does it provide a direct link to an agenda management platform listing of the City Council meeting agendas; therefore, it does not comply with AB 2257.
- F6: The Town of Loomis website does not provide a prominent, direct link to the current City Council meeting agenda, nor does it provide a direct link to an agenda management platform listing of the City Council meeting agendas. The agenda for the Town of Loomis is not searchable for specific terms. Therefore, it does not comply with AB 2257.

Recommendations

The grand jury recommends:

- R1: Placer County update its website to ensure that the Board of Supervisors agenda webpage lists the most recent agenda first by October 1, 2020.
- R2: The City of Auburn update its website by incorporating a prominent, direct link to the current City Council meeting agenda or listing of city council agendas by October 1, 2020. If the link is to a list of agendas, they must list the most recent agenda first.
- R3: The City of Lincoln update its website by making the direct link to the current City Council meeting agenda prominent by October 1, 2020.
- R4: The City of Roseville update its website by incorporating a prominent, direct link to the current City Council meeting agenda or list of city council agendas by October 1, 2020. If the link is to a list of agendas, they must list the most recent agenda first.

- R5: The City of Rocklin update its website by incorporating a prominent, direct link to the current City Council meeting agenda or list of city council agendas by October 1, 2020. If the link is to a list of agendas, they must list the most recent agenda first.
- R6: The Town of Loomis update its website by incorporating a prominent, direct link to the current City Council meeting agenda or list of city council agendas and ensure that the posted agenda is searchable by October 1, 2020. If the link is to a list of agendas, they must list the most recent agenda first.

Request for Response

Pursuant to California Penal Code § 933.05, the Placer County Grand Jury requests a response from the following governing bodies:

Legislative Body	Recommendations Requiring Response	Response Due Date
Bonnie Gore, Chair Placer County Board of Supervisors 175 Fulweiler Avenue Auburn, CA 95603	R1	October 1, 2020
Daniel Berlant, Mayor City Council, City of Auburn 1225 Lincoln Way Auburn, CA 95603	R2	October 1, 2020
Dan Karleskint, Mayor City Council, City of Lincoln 600 6th Street Lincoln, CA 95648	R3	October 1, 2020
John B. Allard II, Mayor City Council, City of Roseville 311 Vernon St. Roseville, California 95678	R4	October 1, 2020
Greg Janda, Mayor City Council, City of Rocklin 3970 Rocklin Road Rocklin, CA 95677	R5	October 1, 2020
Jan Clark-Crets, Mayor Town Council, Town of Loomis 3665 Taylor Road Loomis, CA 95650	R6	October 1, 2020

Copy sent to:

Joe Fatula, Mayor
City Council, City of Colfax
33 South Main St
Colfax, CA 95713

Reference 1: Organization Web Links

District	Website
Placer County	https://www.placer.ca.gov/
City of Auburn	https://www.auburn.ca.gov/
City of Colfax	http://colfax-ca.gov/
City of Lincoln	http://www.lincolnca.gov/
City of Roseville	http://roseville.ca.us/
City of Rocklin	https://www.rocklin.ca.us/
Town of Loomis	https://loomis.ca.gov/

Reference 2: Text of Assembly Bill 2257 § 54954.2

State of California GOVERNMENT CODE

Section 54954.2

54954.2. (a) (1) At least 72 hours before a regular meeting, the legislative body of the local agency, or its designee, shall 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. A brief general description of an item generally need not exceed 20 words. The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public and on the local agency's Internet Web site, if the local agency has one. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. The agenda shall include information regarding how, to whom, and when a request for disability-related modification or accommodation, including auxiliary aids or services, may be made by a person with a disability who requires a modification or accommodation in order to participate in the public meeting.

(2) For a meeting occurring on and after January 1, 2019, of a legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state that has an Internet Web site, the following provisions shall apply:

(A) An online posting of an agenda shall be posted on the primary Internet Web site homepage of a city, county, city and county, special district, school district, or political subdivision established by the state that is accessible through a prominent, direct link to the current agenda. The direct link to the agenda shall not be in a contextual menu; however, a link in addition to the direct link to the agenda may be accessible through a contextual menu.

(B) An online posting of an agenda including, but not limited to, an agenda posted in an integrated agenda management platform, shall be posted in an open format that meets all the following requirements:

(i) Retrievable, downloadable, indexable, and electronically searchable by commonly used Internet search applications.

(ii) Platform independent and machine readable.

(iii) Available to the public free of charge and without any restriction that would impede the reuse or redistribution of the agenda.

(C) A legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state that has an Internet Web site and an integrated agenda management platform shall not be required to comply with subparagraph (A) if all of the following are met:

(i) A direct link to the integrated agenda management platform shall be posted on the primary Internet Web site homepage of a city, county, city and county, special district, school district, or political subdivision established by the state. The direct link to the integrated agenda management platform shall not be in a contextual menu. When a person clicks on the direct link to the integrated agenda management platform, the direct link shall take the person directly to an Internet Web site with the agendas of the legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state.

(ii) The integrated agenda management platform may contain the prior agendas of a legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state for all meetings occurring on or after January 1, 2019.

(iii) The current agenda of the legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state shall be the first agenda available at the top of the integrated agenda management platform.

(iv) All agendas posted in the integrated agenda management platform shall comply with the requirements in clauses (i), (ii), and (iii) of subparagraph (B).

(D) For the purposes of this paragraph, both of the following definitions shall apply:

(i) “Integrated agenda management platform” means an Internet Web site of a city, county, city and county, special district, school district, or political subdivision established by the state dedicated to providing the entirety of the agenda information for the legislative body of the city, county, city and county, special district, school district, or political subdivision established by the state to the public.

(a) “Legislative body” has the same meaning as that term is used in subdivision of Section 54952.

(E) The provisions of this paragraph shall not apply to a political subdivision of a local agency that was established by the legislative body of the city, county, city and county, special district, school district, or political subdivision established by the state.

(3) No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a legislative body or its staff may briefly respond to statements made or questions posed by persons exercising their public testimony rights under Section 54954.3. In addition, on their own initiative or in response to questions posed by the public, a member of a legislative body or its staff may ask a question for clarification, make a brief announcement, or make a brief report on his or her own activities. Furthermore, a member of a legislative body, or the body itself, subject to rules or procedures of the legislative body, may provide a reference to staff or other resources for factual information, request staff to report back to the body at a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future agenda.

(b) Notwithstanding subdivision (a), the legislative body may take action on items of business not appearing on the posted agenda under any of the conditions stated below. Prior to discussing any item pursuant to this subdivision, the legislative body shall publicly identify the item.

(1) Upon a determination by a majority vote of the legislative body that an emergency situation exists, as defined in Section 54956.5.

(2) Upon a determination by a two-thirds vote of the members of the legislative body present at the meeting, or, if less than two-thirds of the members are present, a unanimous vote of those members present, 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 agenda being posted as specified in subdivision (a).

(3) The item was posted pursuant to subdivision (a) for a prior meeting of the legislative body occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.

(c) This section is necessary to implement and reasonably within the scope of paragraph (1) of subdivision (b) of Section 3 of Article I of the California Constitution.

(d) For purposes of subdivision (a), the requirement that the agenda be posted on the local agency’s Internet Web site, if the local agency has one, shall only apply to a legislative body that meets either of the following standards:

(1) A legislative body as that term is defined by subdivision (a) of Section 54952.

(2) A legislative body as that term is defined by subdivision (b) of Section 54952, if the members of the legislative body are compensated for their appearance, and if one or more of the members of the legislative body are also members of a legislative body as that term is defined by subdivision (a) of Section 54952.

(Amended by Stats. 2016, Ch. 265, Sec. 1. (AB 2257) Effective January 1, 2017.)