



SENATE BILL 2 SIDE-BY-SIDE

September 2021

SIDE-BY-SIDE COMPARISON OF SENATE BILL 2 (BRADFORD) LANGUAGE AS PREFERRED BY BILL THE SPONSORS VS. THE CURRENT BILL TODAY AS AMENDED

ISSUE	BILL SPONSOR PREFERRED LANGUAGE	CURRENT LANGUAGE W/ AMENDMENTS
Bane Act Language	Altered the Tom Bane Civil Rights Act – California’s hate crime legislation. The Bane Act creates greatly enhanced liability for public officials, including peace officers, who are proven to have intentionally interfered with a citizen’s protected rights. In its original form, SB 2 would have removed the legal requirement that a peace officer actually intended to violate a person’s civil rights, opening the flood gates of litigation against all officers and their employing municipalities any time they are accused of making a mistake.	The Bane Act provisions that would have removed the intent requirement have been removed from bill.
Advisory Board Make-Up	Established a nine-person panel to oversee the license revocation process that includes seven members of the public, two of whom were reserved for people impacted by police violence, and only two members with prior law enforcement/public safety experience, creating a built-in bias against officers.	Now reserves two seats for non-law enforcement members of the public, with “strong consideration” given to whether they’ve been impacted by police violence. PORAC believes that the Board make-up remains biased against the officer, but additional amendments granting POST the final determination provide a check against the Board’s potentially biased review.
Advisory Board Requirements	Created no requirements for the seven lay-person Board members to go through any kind of training or receive any instruction as it relates to the profession of law enforcement.	All members must now complete a 40-hour decertification training course, as developed by POST which includes subjects regarding the decertification process, internal investigations, evidentiary standards, use of force standards and training and local disciplinary processes.
Double Jeopardy	Authorized action to suspend or revoke a peace officer’s certification even when the same allegations were determined to be unsubstantiated following an appeal to a civil service commission, arbitrator or court.	Current language now includes a provision saying that factual or legal determinations in prior appeal proceedings are binding on POST in decertification cases in accordance with existing legal principles.

Final Determination Authority

Forced POST to more or less rubber stamp the recommendation of the Advisory Board in nearly all instances, regardless of whether POST disagrees.

Current language now vests POST as California's independent certifying agency with the final determination as to whether an officer deserves to have their license revoked, which they may only do with a 2/3 majority vote of the POST commission. POST determines if the entire body of evidence – not just the evidence considered by the Advisory Board – justifies revocation of a peace officer's license by clear and convincing evidence. The Advisory Board now serves in a strictly advisory capacity with no decision-making authority regarding the revocation of a peace officer's license.