

A SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2021-2022 Regular Session

AB 2296 (Jones-Sawyer)
Version: February 16, 2022
Hearing Date: June 14, 2022
Fiscal: Yes
Urgency: No
AWM

SUBJECT

Task Force to Study and Develop Reparation Proposals for African Americans

DIGEST

This bill extends the sunset on the Task Force to Study and Develop Reparation Proposals for African Americans, with Special Considerations for African Americans who are Descendants of Persons Enslaved in the United States (Task Force) to give the Task Force an additional year to complete its work.

EXECUTIVE SUMMARY

In 2020, the State enacted AB 3121 (Weber, Ch. 319, Stats. 2020) to establish a task force to study reparations. AB 3121 recognized that, while California was ostensibly a “free state” and is not popularly associated with Jim Crow laws and de jure segregation, California was an active defender of enslavement and, following the abolition of slavery, enacted myriad policies that furthered white supremacy and exacerbated the discrimination and inequality suffered by African Americans.

On June 1, 2021, the Task Force held its first meeting, triggering the one-year timeline for the Task Force to deliver a statutorily-mandated report on its findings and recommendations to the Legislature. The Task Force delivered its interim report – a 500-page document that intricately and painfully details the harms inflicted on African Americans by policies developed and condoned by this State. The interim report makes preliminary recommendations for how the State can make reparations for its long history of officially sanctioned racism; the Task Force will issue its final report, including its final recommendations, before July 1, 2023. The statutes establishing the Task Force are set to sunset on July 1, 2023, leaving the Task Force with little time following the issuance of its final report to provide assistance and information relating to its recommendations.

This bill extends the sunset provisions of the Task Force by one year and allows it to continue its important work until July 1, 2024. With the expanded timeline, the Task Force will be able to continue executing its vast scope of duties and develop recommendations with the careful consideration they deserve.

This bill is sponsored by the author and is supported by the California Nurses Association/National Nurses United and the California Teachers Association. There is no known opposition.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Establishes, within the Government Code, Chapter 4.5 of Division 1 in Title 2, entitled "Reparations for the Institution of Slavery." (Gov. Code, tit. 2, div. 1, ch. 4.5, §§ 3801 et seq.)
- 2) Establishes the Task Force to Study and Develop Reparation Proposals for African Americans, with Special Considerations for African Americans who are Descendants of Persons Enslaved in the United States. (Gov. Code, § 8301.1(a).)
- 3) Requires the Task Force to perform all of the following duties:
 - a) Identify, compile, and synthesize the relevant corpus of evidentiary documentation of the institution of slavery that existed within the United States and the colonies that became the United States from 1619 to 1865, inclusive, including specified components of that institution.
 - b) Recommend appropriate ways to educate the California public of the Task Force's findings.
 - c) Recommend appropriate remedies in consideration of the Task Force's findings, and address factors such as how the remedies comport with international standards of remedy for wrongs and injuries caused by the State, how the State will offer a formal apology for its perpetration of slavery, how to eliminate California laws and policies that continue to disproportionately and negatively affect African Americans, and what forms of compensation should be awarded. (Gov. Code, § 8301.1(b).)
- 4) Requires the Task Force to submit a written report of its findings and recommendations to the Legislature no later than the date that is one year after the date of the first meeting of the Task Force, as defined. (Gov. Code, § 8301.1(c).)
- 5) Provides for the composition of the Task Force, the term of office for members, and compensation for members, as specified, and for the Task Force to appoint personnel or otherwise procure assistance and supplies. (Gov. Code, §§ 8301.2, 8301.4.)

- 6) Authorizes the Task Force to take specified actions for the purpose of carrying out its duties, including hold hearings, request the production of documents, and seek a court order to compel the presence of witnesses or compliance with a subpoena. (Gov. Code, § 8301.3)
- 7) Provides that the chapter in 1), containing the duties and obligations in 2)-6), will sunset on July 1, 2023. (Gov. Code, § 8301.7.)

This bill:

- 1) Extends the sunset date on the chapter enacting the Task Force until July 1, 2024.

COMMENTS

1. Author's comment

According to the author:

AB 2296 seeks to extend the California Task Force to Study and Develop Reparation Proposals for African Americans sunset to July 1, 2024.

The continued legacy of discrimination and structural inequality plagues Black Americans to this very day. The vestiges of United States chattel slavery permeate through the lives of slave-era descendants and federal efforts to look at the very real harms and avenues for redress have stalled. In 2020, Governor Newsom signed AB 3121 (S. Weber) into law, establishing the California Task Force to Study and Develop Reparation Proposals for African Americans. The bill requires the task force to gather and synthesize documentary evidence of slavery and its ongoing legacy, develop ways to educate Californians about its findings, and recommend appropriate remedies in a report to the Legislature.

This monumental task is not being taken lightly. The members of the task force are working to ensure that we gather as much evidence as humanly possible and produce a framework that can be used as a starting point for other states and the nation. This work takes time and even after the report is published, there will undoubtedly be work to do beyond the current July 1, 2023 sunset date.

2. This bill extends the sunset on the Task Force to give it more time to complete its vital mission

In 2020, the Legislature enacted, and the Governor signed, AB 3121 (Weber, Ch. 319, Stats. 2020), which created a first-in-the-nation Task Force to explore options for providing reparations to African Americans, and particularly the descendants of enslaved persons, in recognition of California's role in the heinous institution of slavery

and the post-abolition perpetuation of racist institutions.¹ The bill set a one-year period for the Task Force, after convening for the first time, to conduct the required investigation and issue a report with its recommendations.²

The Task Force met for the first time on June 1, 2021. Led by Chairperson Kamilah Moore, the Task Force released an interim report on June 1, 2022, that provides the preliminary findings regarding the ongoing and compounding harms caused by federal, state, and local governments – including California – from slavery and the “ ‘badges and incidents of slavery’ ” that continued to be imposed on African Americans long after slavery was formally abolished.³ The report notes that, because “the effects of slavery infected every aspect of American society over the last 400 years...it is nearly impossible to identify every ‘badge and incident of slavery,’ to include every piece of evidence, or describe every harm done to African Americans.”⁴ The report therefore sets forth “a sample of government actions and compounding harms that have resulted, organized into 12 specific areas of systematic discrimination.”⁵ The 12 areas covered are: enslavement; racial terror; political disenfranchisement; housing segregation; separate and unequal education; racism in environment and infrastructure; pathologizing Black families; control over creative, cultural, and intellectual life; stolen labor and hindered opportunity; an unjust legal system; mental and physical harm and neglect; and the wealth gap.⁶

The interim report is the culmination of over 40 hours of testimony from over 103 witnesses, 16 hours of public comment, countless emails and phone calls from members of the public, and the consideration of voluminous materials from experts and members of the public alike.⁷ At over 500 pages, the interim report may be the most extensive government-issued report on the African-American community since the Kerner Commission report issued in 1968.⁸

Nevertheless, the interim report does not represent the end of the Task Force’s work. The interim report provides preliminary recommendations to address the harms

¹ HR 40 (Lee, 117th Cong., 2021-2022), a federal bill to create a federal commission to study the effects of slavery and discrimination on African Americans and devise reparations proposals, has been introduced every year since 1989. The House Judiciary Committee voted the bill out of committee for the first time in April 2021. There has been no action since then.

² See Gov. Code, § 8301.1(c).

³ California Task Force to Study and Develop Reparation Proposals for African Americans, Interim Report (June 1, 2022), available at <https://oag.ca.gov/ab3121/reports> (last visited June 2, 2022) (Interim Report).

⁴ *Id.* at p. 5.

⁵ *Ibid.*

⁶ *Id.* at pp. 6-16.

⁷ *Id.* at p. 37.

⁸ Office of the Attorney General, Press Release, *California Reparations Task Force Releases Interim Report Detailing Harms of Slavery and Systematic Discrimination on African Americans* (June 1, 2022), <https://oag.ca.gov/news/press-releases/california-reparations-task-force-releases-interim-report-detailing-harms> (last visited June 2, 2022).

identified therein,⁹ but the Task Force’s final report – to be issued following additional hearings, community engagement, and consultations with experts – will set forth the Task Force’s final recommendations on potential forms that an apology from the State and reparations should take.¹⁰

The chapter establishing the Task Force and establishing its duties and powers is set to sunset on July 1, 2023.¹¹ While the Task Force currently plans to issue its final report before that date,¹² the sunset would prevent the Task Force from continuing to execute its duties with respect to the final report and its recommendations. To avoid the premature disbanding of the Task Force, this bill extends the sunset by one year, to July 1, 2024.

3. Arguments in support

According to the California Nurses Association/National Nurses United (CNA), writing in support:

CNA is an ardent supporter of racial justice and advocates for policies that lead to an end of institutional racial discrimination. Over 4 million Africans were enslaved for the benefit of the American economy and likely the largest driving force to America’s rise as a superpower in the modern era. Utilizing free labor, held under the threat of death, has beyond a doubt made it possible for America to become one of the wealthiest nations of the world...

Slavery also broadly impacted the conditions of Black life within California. For example, during the era of slavery, the California Legislature, which was dominated by pro-slavery Democrats hoping to curtail Black social and political power within the state, passed a series of laws prohibiting “blacks and mulattoes” from voting and from testifying against whites in court – in both criminal and civil cases. The California Legislature stripped Black citizens of political power while empowering White people to broadly commit crime without consequence against Black persons. This type of systematic state complicity in the construction of racial harm and inequality continued into the twentieth and twenty-first centuries.

⁹ Interim Report, *supra*, fn. 2, at pp. 19-24.

¹⁰ *Id.* at p. 37. Some, including the Assembly Judiciary Committee’s analysis of this bill, have discussed the possibility that the State will be unable to act on some of the Task Force’s recommendations due to the constraints of Proposition 209. (*See* Cal. Const., art. I, § 31, added by initiative measure (Prop. 209, approved Nov. 5, 1996, eff. Nov. 6, 1996).) This concern is premature, given that the State has not moved forward with any particular recommendations. Moreover, it is questionable whether reparations are “preferential treatment” prohibited by Proposition 209, given that reparations are, by definition, compensation for harm inflicted by the government.

¹¹ Gov. Code, § 8301.7.

¹² Interim Report, *supra*, fn. 2, at p. 5.

Surely these facts are worth the time and energy to continue to study, at a minimum, a policy for reparations for these descendants of this population.

SUPPORT

California Nurses Association/National Nurses United
California Teachers Association

OPPOSITION

None known

RELATED LEGISLATION

Pending Legislation: None known.

Prior Legislation:

SB 796 (Bradford, Ch. 435, Stats. 2021) authorized the return of Bruce's Beach, the first West Coast resort for Black people, to the descendants of the resort owners decades after it was seized by the Manhattan City Beach Council from the owning family.

AB 3121 (Weber, Ch. 319, Stats. 2020) established the Task Force and its mission, with a sunset date of July 1, 2023.

ACR 130 (Weber, Res. Ch. 176, Stats. 2019) recognized, on behalf of the California Legislature, the need to pursue avenues to implement proposed reparations for the descendants of African slaves in the United States.

PRIOR VOTES:

Assembly Floor (Ayes 56, Noes 13)

Assembly Appropriations Committee (Ayes 12, Noes 3)

Assembly Judiciary Committee (Ayes 6, Noes 2)
