

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2023-2024 Regular Session

SB 490 (Bradford)
Version: February 14, 2023
Hearing Date: March 28, 2023
Fiscal: Yes
Urgency: Yes
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

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. In 2022, the Legislature passed AB 2296 (Jones-Sawyer, 2022), which would have made it easier for members and officers of the Task Force to be removed from the Task Force and extended the sunset on the Task Force until July 1, 2024. Governor Gavin Newsom vetoed AB 2296, stating that he did so at the request of the author of the bill that implemented the Task Force, now-Secretary of State Shirley Weber.

The Task Force is still on track to issue its final report by July 1, 2023. This bill simply extends the sunset provision of the Task Force by one year to allow the Task Force to

provide technical assistance and other feedback on its final report as a collective body until July 1, 2024.

This bill is sponsored by the author. 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 holding hearings, requesting the production of documents, and

seeking 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.
- 2) Contains an urgency clause.

COMMENTS

1. Author's comment

According to the author:

SB 490 seeks to extend the California Task Force to Study and Develop Reparation Proposals for African Americans sunset to July 1, 2024.

On July 1, 2023, the Reparations Task Force intends to publish its final report and recommendations to the State Legislature. However, after this date the Task Force will also be disbanded in accordance with AB 3121. This poses significant challenges on the Task Force's ability to engage in discussions and provide technical assistance on their final recommendations, which the Task Force has determined as necessary in their February 2023 hearing.

This bill would simply extend the Task Force's sunset date to July 1, 2024 and does nothing to further delay the publication of the report or the potential introduction of reparations as legislative proposals.

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

¹ HR 40 (Lee, 118th Cong., 2023-2024), a federal bill to create a federal commission to study the effects of slavery and discrimination on African Americans and devise reparations proposals, is pending before the House Committee on Judiciary. The bill has been introduced every year since 1989.

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 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

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> (Interim Report). All links in this analysis are current as of March 23, 2023.

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>.

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

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 providing technical assistance and commentary on the final report as a coherent body.

Last year, the Legislature passed AB 2296 (Jones-Sawyer, 2022), which would have extended the sunset until July 1, 2024, but also would have made changes affecting the composition of the Task Force and its elected officers, such as permitting the appointing body of the Task Force to remove members at will. Governor Newsom vetoed the bill, stating that he did so at the request of now-Secretary of State Shirley Weber, who was the author of the bill that originally created the task force.¹³

This bill does only one thing: it extends the sunset by one year, to July 1, 2024. This extension is not intended to delay the Task Force’s issuance of its final report; it is intended to give the Task Force time to provide technical assistance and engage with interested parties about the final report and its findings. The Task Force voted to support this measure at its January 27, 2023 meeting.¹⁴

SUPPORT

None known

OPPOSITION

None known

RELATED LEGISLATION

Pending Legislation: None known.

¹⁰ *Id.* at p. 37. Some have expressed concern 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.

¹³ Governor’s veto message to Assem. on AB 2296 (Sept. 29, 2022) Recess J. No. 10 (2021-2022 (Reg. Sess.) p. 6798)

¹⁴ Reparations Task Force Meeting Minutes, January 27, 2023 meeting, Item 14, pp. 21-22, available at <https://oag.ca.gov/system/files/media/task-force-agenda4-draft-reparations-mm-0127023.pdf>.

Prior Legislation:

AB 2296 (Jones-Sawyer, 2022), would have made it easier for members of the Task Force to be removed, allowed officers of the Task Force to be removed by a majority vote of the members, and extended the July 1, 2023, sunset on the Task Force to July 1, 2024. The bill was passed by the Legislature but vetoed by Governor Newsom, whose veto message stated that he was vetoing the bill at the request of the author of the original legislation that created the Task force.

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 Beach City 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.
