



# Assemblymember Laurie Davies, 74<sup>th</sup> District

## AB 2690

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### THIS BILL

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AB 2690 clarifies existing law to continue the long-standing practice of providing California taxpayers standing in court.

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### BACKGROUND

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California Code of Civil Procedure (CCP) section 526a was originally enacted in 1909. Its primary purpose was to enable a large body of the citizenry to challenge governmental action which would otherwise go unchallenged in the courts because of the standing requirement.<sup>1</sup>

Prior to the enactment of CCP 526a, California, like many states, recognized common law taxpayer standing, which is that a local taxpayer could sue to enjoin unlawful or wasteful expenditures of public funds by local officials. Throughout the 20<sup>th</sup> century, California courts began to blend common law and CCP 526a, which created a jurisprudence that allowed California taxpayers to have standing to sue all levels of government.

Some cases recognized common law taxpayer suits against state officers without invoking CCP 526a. In *Ahlgren v. Carr* (1962) taxpayers sued state officials and the court found taxpayer standing based on the “great weight of authority.”<sup>2</sup> Likewise, in *California State Employees Assn. v. Williams* (1970), taxpayers challenged a state contract as violating the state constitution’s civil service provision. The courts relied on common law principles to acknowledge taxpayer standing.<sup>3</sup>

In *Blair v. Pitchess* (1971), the court added that “it has been held that taxpayers may sue state officials to enjoin such officials from illegally expending state funds,” citing *Ahlgren* and *Williams*.<sup>4</sup> In the same year, the courts reinforced this interpretation in *Serrano v. Priest* (1971) and asserted that “state officers too may be sued under (CCP) section 526a,” citing *Blair*, *Williams*, and *Ahlgren*.<sup>5</sup> The Courts of Appeal followed this jurisprudence, repeatedly stating that CCP 526a had been “judicially extended” to cover “all state and local agencies and officials.”<sup>6</sup>

However, in a recent case *Taking Offense v. State of California*, the California Supreme Court held that CCP 526a “does not afford standing to sue the State or its officers or entities . . .” Id. at 911. The Court encouraged the Legislature to “comprehensively review both (CCP) section 526a and existing common law authority, in order to harmonize and clarify the circumstances under which the state and its officers or entities may be subject to a taxpayer standing suit.”<sup>7</sup>

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### PROBLEM

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Fundamental to our system of coequal branches is the taxpayer’s ability to hold the government accountable through the legal system – a right that transcends political affiliation and remains essential to any free nation.

If we allow taxpayer suits against local and regional governments, but not state or state officials, it will disproportionately harm low-income Californians and communities of color.

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<sup>1</sup> *Blair v. Pitchess* (1971) 5 Cal.3d 258, 267-268

<sup>2</sup> *Ahlgren v. Carr* (1962) 209 Cal.App.2d 248

<sup>3</sup> *State Employees Assn. v. Williams* (1970) 7 Cal.App.3d 390

<sup>4</sup> *Blair v. Pitchess* (1971) 5 Cal.3d 258

<sup>5</sup> *Serrano v. Priest* (1971) 5 Cal.3d 584, 618, footnote 38

<sup>6</sup> *Vasquez v. State of California* (2003) 105 Cal.App.4<sup>th</sup> 849, 854

<sup>7</sup> *Taking Offense v. State of California* (2025) \_\_ Cal.5<sup>th</sup> \_\_.

Californians living in poverty are uniquely affected by the State government. For example, millions of low-income residents depend on Medi-Cal for life preserving medical care; CalFresh to keep food on their tables; and CalWORKs for cash assistance. If these agencies ever were to act illegally, taxpayer actions have been an important part to holding them accountable.

Taxpayer actions against state agencies often challenge racial discrimination. For instance, *Padres Buscando el Cambio v. Harbor Development Disabilities Foundation, Inc.* is a taxpayer action resulting in a settlement requiring the California Department of Developmental Services to address racial discrimination in the provision of services to children with developmental disabilities.

Another important case including a taxpayer cause of action seeks to require the California Department of Education and its Superintendent of Public Instruction to monitor all California public school districts for racially discriminatory discipline policies and practices, and to redress those practices when they are found.<sup>8</sup>

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#### SOLUTION

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Clarify CCP 526a to permit taxpayer action against State government, which has been common practice throughout California for nearly a century.

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#### CONTACT

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<sup>8</sup> *R.W. v. Thurmond* LA Super. Ct. No. 21STCP03325