

Date of Hearing: March 26, 2019

ASSEMBLY COMMITTEE ON PRIVACY AND CONSUMER PROTECTION

Ed Chau, Chair

AB 976 (Chau et al.) – As Introduced February 21, 2019

SUBJECT: Artificial Intelligence in State Government Services Commission

SUMMARY: This bill would establish the Artificial Intelligence in State Government Services Commission (Commission) as an advisory commission comprised of six appointed members and two designated ex officio members with certain knowledge and expertise related to the field of artificial intelligence (AI). This bill would require the Commission to: (1) convene a public process to gather certain input; (2) provide a plan for soliciting and incorporating AI and data science related demonstration projects into state services, as specified; and (3) provide its recommendations to the Legislature and the Governor by November 1, 2020. Specifically, **this bill would:**

- 1) Enact the Artificial Intelligence in State Government Services Commission Act to establish the Artificial Intelligence in State Government Services Commission, comprised of eight members, who will serve without compensation but will be reimbursed for actual and necessary travel expenses while on official business of the Commission.
- 2) Set forth that the Commission's membership shall be comprised of:
 - Four members appointed by the Governor, including at least one representative from organized labor and one from the private sector.
 - One member appointed by the Senate Committee on Rules and one by the Speaker of the Assembly.
 - The Director of Technology and Director of Finance, as ex officio members of the Commission.
- 3) Require that members of the Commission be individuals with knowledge of, and expertise in, the field of AI from private industry, governments, nonprofit organizations, unions, and academia.
- 4) Require that the Commission be chaired by a Governor's appointee.
- 5) Require the Commission to do all of the following:
 - Convene a public process to gather input on how AI and data science could be used to improve state services.
 - Propose a plan for all of the following: (1) soliciting AI and data science related demonstration projects for critical state services; and (2) incorporating successful AI and data science related demonstration projects into existing state government services.
 - Submit its recommendations in accordance with existing law, as specified, to the Legislature and the Governor by November 1, 2020.

- 6) Provide that the Commission must be advisory only, and has no authority or duty on the part of the State, or the parties meeting and conferring to implement the findings of the Commission without further legislation that specifically authorizes or requires that the evaluations, determinations, and findings of the Commission be implemented.
- 7) Make various uncodified findings and declarations, which include, among other things, that it is the intent of the Legislature to ensure that California begins preparing to harness the power of AI in ways that will improve the economy, public health and safety, jobs, and the environment.

EXISTING LAW:

- 1) Establishes the California Department of Technology (CDT) within the Government Operations Agency, under the supervision of the Director of Technology (Director), also known as the State Chief Information Officer. (Gov. Code Sec. 11545(a).)
- 2) Requires the Director to, among other things, advise the Governor on the strategic management and direction of the State's information technology (IT) resources and provide technology direction to agency and department chief information officers to ensure the integration of statewide technology initiatives. (Gov. Code Sec. 11545(b).)

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Purpose of the bill:** This bill seeks to establish the Artificial Intelligence in State Government Services Commission as an advisory commission in state government, to gather input and develop a plan on how to harness the power of AI in government services, as otherwise directed under the bill. This bill is author-sponsored.
- 2) **Author's statement:** As stated by the author, "[AI] has an incredible ability to create a global paradigm shift that may propel society into an automation age and propose unique solutions to some of the world's greatest problems. Its application may soon become immersed in every major area of our work and personal lives, such as transportation, communications, finance, health care services, emergency response services, education, community planning, criminal justice, and entertainment. While this emerging technology presents opportunities, it also comes with its own challenges, including potentially displacing workers, loss of privacy, or reinforcing institutional biases, among other things. These legal and ethical challenges will require involvement from all stakeholders to address. As a result, we, as Legislators, must facilitate that dialogue to find a balance between protecting our state's population, while simultaneously driving innovation and productivity, as a leader in the global marketplace. This bill is intended to begin those necessary conversations by establishing the Artificial Intelligence in State Government Services Commission to gather input on how artificial intelligence and data science could be used to improve state services."
- 3) **The opportunities and challenges of AI:** Last spring, this Committee held a joint informational hearing with the Assembly Select Committee on Emerging Technologies & Innovation on the topic of AI, to begin a preliminary discussion of the promises and challenges presented by AI. The overarching goal of the hearing was to bring members and staff a greater understanding of AI in order to engender more thoughtful public policy in the

future. As recognized in the committees' background paper on AI, the opportunities and challenges posed by AI are significant, and in many ways still being uncovered:

[...] AI is frequently associated with technologies linked to our smartphones, or new gadgets like virtual assistants or smart speakers like Alexa or Google Home. In cinema, it is often portrayed as “robot apocalypse.” For the Legislature, contemplating AI applications of the “future” frequently includes autonomous vehicles and concerns displacement of workers with the automation of jobs. Beyond such examples, however, it is not as obvious what AI looks like five years down the line, let alone [ten]. [...]

For example, for many people, AI is not immediately associated with social justice. However, at the University of Southern California, the Center for Artificial Intelligence in Society (CAIS) has brought researchers together from around the world to focus on how computer science can be used to solve social problems. Indeed, from the CAIS' perspective, AI can be used to improve society and fight social injustice. Their current projects include: AI for Cybersecurity; HIV prevention among homeless youth; Wildlife Conservation with drones; AI for Wildlife Conservation in Africa; Predictive modeling of tobacco use and prevention among abused children; Predictive models of vulnerability and housing prioritization for youth and families; Gang violence prevention using game theory; Social network-based substance abuse prevention for homeless youth; Predictive modeling for early identification of suicidal thinking among active duty service members; Network-based suicide prevention for college students; AI for public safety and security using game theory; and others.

At the same time, while AI may present unique solutions to social problems or even governmental ones, as indicated above, it may very well exacerbate others if not done with adequate safeguards in place. For example, governmental entities may turn to AI for useful applications in everything from enhancing delivery of services to better addressing public safety concerns. Consider how some states' courts have sought to apply AI to conduct risk assessments (i.e. assessments of how likely a defendant is to commit future crimes) through the use of seemingly neutral algorithms. Already, concerns have been raised about how these algorithms may in fact reinforce or aggravate biases. (Citing Anwin, Larson, Mattu, and Kirchner, *Machine Bias*, ProPublica (May 23, 2016) [as of Mar. 4, 2018].)

Notably, at the same time that this Committee began this joint-endeavor to generate greater understanding of the opportunities and challenges of AI within the Legislature, the Little Hoover Commission (LHC) was simultaneously studying the same topic. The LHC began its process, which included both public hearings and roundtables, with a public hearing on January 25, 2018, entitled “Artificial Intelligence: Applications and Implications.” At that first hearing, the LHC indicated that it ultimately intended to produce a report and policy recommendations about how the State of California can approach AI.

Indeed, in November 2018, the LHC produced its report, *Artificial Intelligence: A Roadmap for California*, wherein it similarly recognized the possible benefits and potential misuses of AI in an opening “Letter from the Chair” by LHC Chairman, Pedro Nava:

Imagine using AI applications to predict where fires may occur, detect early-stage wildfires, or guide firefighters where best to fight a fire and save lives. Conceive of an environment where AI could promote biodiversity and water conservation, and protect

endangered species. See educators using AI to improve student learning and increase graduation rates. Envision better detection of diseases, including cancer, and more finely-tuned effective treatments. Certainly, such visions must be tempered with appropriate privacy protections and robust laws aimed at preventing the misuse of data. In addition, this encouraging future, which is presently knocking at our door, will require not just foresight but insight, not just political will but political action, and not just one mind but a collaboration of minds in government, academia, and private industry. (*See LHC Report #245, Artificial Intelligence: A Roadmap for California* (Nov. 2018), p. 1; hereinafter “LHC Report.”)

This bill, AB 976, arises out of the LHC Report’s recommendations and seeks to establish an advisory commission in state government that will gather input and develop a plan on how to harness the power of AI in government services.

- 4) **Findings and recommendations made by Little Hoover Commission report on AI:** The LHC Report begins by recognizing that “[AI] is already changing the structure of goods and services in the economy, and altering the nature of work. This has major implications for our workforce and opens critical questions about our human values like privacy. [...] AI poses four key decisions for California: (1) how to support AI research and responsible AI use to grow the state’s economy; (2) how to take advantage of advances in AI to enhance services to Californians; (3) how to configure a new structure for lifelong education and training to respond to the inevitable disruption in the tasks or content of work; and (4) how to protect its values of privacy, transparency and accountability in this new economic era.” (*Id.* at p. 6.)

The LHC Report describes how, currently, California is unprepared to take the lead in a race to prepare for AI because it “lacks any single clear leadership and focus on the development and use of AI technology and applications to improve internal and external operations and services within an ethical framework.” The report also warns that California has not begun “the necessary work to forecast and prepare for the inevitable changes the new technology will impose on the state’s workforce and economy. This void could leave California flatfooted in a highly competitive race for AI superiority where only the winner takes all.” (*Id.*)

To get to the necessary decisions posed by AI and to fill this identified void, the LHC Report sets forth nine recommendations to the Governor and Legislature, which cover everything from state government infrastructure and planning, education and training, the collection of data, creation of an AI commission, and more. The recommendations, for example, include:

- The Governor should appoint an AI special advisor within the Governor’s cabinet, with certain suggested duties. (*See Recommendation 1.*)
- The Governor and Legislature should require each state agency or standalone department to designate a chief artificial intelligence officer, with certain suggested duties. (*See Recommendation 2.*)
- The Governor and Legislature should ensure an environment in California of continued and sustained efforts to stimulate investment, research and development into AI technologies and applications within an ethical framework that promotes AI for economic, social and environmental good. This effort should include collaboration with stakeholders. (*See Recommendation 8.*)

This bill, AB 976, now seeks to adopt a specific recommendation of the LHC Report relating to the adoption of an AI commission. (Recommendation 7; *see* Comment 8 for more). The bill also includes various findings and declarations in support of the new Commission that are entirely consistent with the findings of that report. For example, the bill finds and declares that:

- AI can offer significant quality of life improvements, but the risks and benefits of this technology may not be evenly distributed across society. (*See* LHC Report, p. 28.)
- Countries around the globe and even states and cities in the United States are taking early steps to understand and use AI technology and applications. California has not kept pace with these efforts to address the implications of AI and can learn from and expand upon their recent advances. (*See* LHC Report, pp.10 and 12.)
- California lacks the infrastructure within state government to plan how best to take advantage of new technologies to drive economic, social, and environmental good and improve the delivery of government services, while minimizing risks associated with AI. (*See* LHC Report, pg. 21.)
- Therefore, it is the intent of the Legislature to ensure that California begins preparing to harness the power of AI in ways that will improve the economy, public health and safety, jobs, and the environment.

5) **Comparison to Recommendation 7 of the LHC report:** As indicated in Comment 7, above, this bill seeks to implement Recommendation 7 of the LHC Report by enacting the Artificial Intelligence in State Government Services Commission Act to establish in state government an eight person advisory commission, called the Artificial Intelligence in State Government Services Commission. The bill charges the new commission with certain responsibilities, with the expectation that it submit its recommendations to the Legislature and Governor by November 1, 2020. Derived largely from Recommendation 7 of the LHC report, the bill identifies the Commission’s responsibilities as follows: first, it must convene a public process to gather input on how AI and data science could be used to improve state services. Second, it must propose a plan for (1) soliciting AI and data science related demonstration projects for critical state services; and (2) incorporating successful AI and data science related demonstration projects into existing state government services.

By comparison, Recommendation 7 of the LHC report expressly states that “[t]he Governor and Legislature should create an AI commission made up of knowledgeable professionals and experts in the field of AI from private industry, governments, nonprofits, unions and academia, for the purposes of: (1) developing AI related demonstration projects for critical state services; (2) incorporating successful AI-related demonstration projects into the state system; and (3) further advancing how data science can be effectively utilized by state government.” (LHC Report, p. 17.)

Accordingly, this bill appears to have fully adopted the first two purposes identified by the LHC for the recommended commission and expressly requires that the membership be comprised of knowledgeable professionals and experts in the field of AI from private industry, governments, nonprofit organizations, unions, and academia, consistent with Recommendation 7. While, at first glance, it may seem that the bill does not expressly

incorporate the third purpose suggested for the new commission (*i.e.*, to “further advanc[e] how data science can be effectively utilized by state government”), staff notes that the author appears to have folded the recommendation for advancing data science into the first two purposes regarding the development and incorporation of demonstration projects into state government services.

Staff also notes that the bill (and Recommendation 7, for that matter) charges the new Commission to solicit and incorporate AI and data science related “demonstration projects” but does not define that term any further. Looking at the term contextually, it appears that the bill is encouraging the identification of appropriate pilot projects regarding how AI and data science may be used in state government. The author confirms that the LHC report “attempts to make the point that many sectors are potentially impacted by AI and the applications for government are just as broad—whether it is to help predict where forest fires will occur, identify at-risk students, promote health, and so forth. That being said, deciding which projects the state should undertake nor how to prioritize application of AI into state government requires more analysis and subject matter expertise than the LHC study process allowed. As such, this bill, following the structure of Recommendation 7, proposes that experts in the AI commission help identify and develop which projects the state should pilot to test the value of AI applications for state government, and then expand successful strategies.”

In support of the bill, the Future of Life Institute (FLI) writes:

We are proud to support AB 976 for two major reasons. First, as constituted by this bill, we believe that the Artificial Intelligence in State Government Services Commission will be well-served by the inclusion of representatives from California’s deep pool of non-governmental experts in AI technologies. Second, we believe the rollout of AI technologies for state government services is best accomplished first through carefully developed and monitored pilot demonstration projects so that any negative unanticipated effects can be mitigated.

- 6) **Commission membership:** The eight member Commission is largely to be created by way of the appointment process, including four appointees of the Governor (two of whom must come from labor and the private sector), and one appointee each from the Senate Rules Committee and Assembly Speaker. Notably, the remaining two Commission members are to be ex officio members – one being the Director of Technology and the other being the Director of Finance. Given that CDT exists in California state government to advise the Governor on the strategic management and direction of the State’s IT resources and provide technology direction to agency and department chief information officers to ensure the integration of statewide technology initiatives, the inclusion of CDT’s director as an ex officio member is arguably appropriate (if not necessary) to incorporate the State’s existing expertise in statewide IT resources and IT-related solutions and initiatives.

Further supporting the inclusion of CDT’s director in this new AI commission is the expertise that CDT’s Office of Digital Innovation (ODI) has cultivated in recent years. CDT originally launched ODI in 2016 to define an approach to government technology innovation that would drive the department forward as a thought leader and technology innovator in state government. To that end, ODI already appears to be considering some applications of AI within state government. An October 2018 Techwire article, for example, noted that

CDT's Digital Web Services Network, led by ODI, was established as "a forum where state partners (and) local government can share information for digital services including policy, technology, tools and best practices" and would include a discussion around AI at its then-upcoming quarterly meeting. (Techwire, *CDT Web Services Meeting to Focus on AI, Innovation* (Oct. 17, 2018) <<https://www.techwire.net/news/cdt.html>> [as of Mar. 12, 2019].)

As noted above, FLI writes in support of this bill and writes that it also hopes that the Legislature will build upon the possible passage of this bill to "further advance ethical governance of AI technologies." FLI suggests, for example, that the Legislature may need to instruct CDT to formally adopt the ultimately recommendations of the Commission. Staff notes that this arguably is a determination that should be made upon review of the resulting recommendations, if this bill were to pass, to determine the appropriate state entity (or entities) for implementing any specific approved recommendations.

FLI also writes that "it may be appropriate for the Commission, or a Commission like it, to develop minimum standards for the use of AI technologies by the State of California that help: foster accountability in the use of AI technologies for state government services, prioritize the safety and security of AI technologies used by state government, protect the privacy of California residents, and monitor the impacts of AI technologies throughout CA, in areas including such as automation and labor displacement, and bias and discrimination." Staff notes that another bill, AB 459 (Kiley) was introduced this year and recently amended to require the Commission to develop such minimum standards if AB 976 is enacted. (*See Pending Legislation for more.*)

- 7) **Future considerations:** The author may wish to consider whether it would be beneficial in shaping the direction of this new Commission to also adopt the LHC report's definition of AI: "a quality of any computer program (algorithms, data structures and data) that can sense, reason, act and adapt like humans." (LHC Report, p. 7.)

One the one hand, the definition may provide helpful parameters to the Commission with regard to how the Legislature understood AI at the time of its creation. On the other hand, it may be unduly limiting given the new commission's purposes under this bill; whereas leaving the term "undefined" with respect to any specific understanding of what is or is not "AI" at this given moment, may provide the Commission greater flexibility in making its recommendations.

As noted in this Committee's joint informational hearing on AI last year, "[t]hough first coined by a Dartmouth professor, John McCarthy, in the 1950s, there still does not appear to be any singular, consistent definition of [AI] in use today, over 60 years later." Given the varying definitions that exist even today, flexibility may be warranted in this case. Staff notes that any concern with leaving the term undefined in this bill is arguably mitigated by the fact that the Commission is advisory only and may not take further action in the absence of future legislation. This would likely be of greater concern in future legislation regulating state or private entities activities around AI.

- 8) **Related Legislation:** AB 459 (Kiley) seeks to require this Commission, on or before November 1, 2020, to report to the Legislature on its recommended minimum standards for the use of AI in state government, as specified. That bill contains contingent enactment language which specifies it shall become effectively only if this bill is enacted and becomes

effective before January 1, 2020. This bill was recently double-referred to this Committee and the Assembly Committee on Accountability & Administrative Review.

AB 594 (Salas) states the intent of the Legislature to enact legislation relating to AI. This bill was recently double-referred to this Committee and the Assembly Committee on Labor and Employment.

AB 1576 (Calderon) states the intent of the Legislature to enact legislation that would relate to identifying an appropriate state agency to analyze the possible impacts of AI technology on the state with a goal to ensuring that the state is ready to adopt and utilize the technology. This bill is currently in the Assembly Rules Committee.

SB 348 (Chang) would require the secretaries of certain state agencies to devise a strategic plan, as specified, to utilize artificial technology to improve state services. The bill would encourage the Governor to appoint a special adviser on artificial intelligence to create a statewide strategic plan, as specified, to utilize artificial technology to improve state services. The bill also would encourage certain entities to designate a chief artificial intelligence officer. This bill is pending hearing in the Senate Governmental Organization Committee.

SB 444 (Umberg) states the intent of the Legislature to enact legislation that would relate to civil actions and AI. This bill is currently in the Senate Rules Committee.

- 9) **Double-referral:** This bill is double-referred to the Assembly Accountability and Administrative Review Committee, where it will be heard if passed by this Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Future of Life Institute
Little Hoover Commission

Opposition

None on file

Analysis Prepared by: Ronak Daylami / P. & C.P. / (916) 319-2200