



YEAR-END LEGISLATIVE REPORT 2021

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Another COVID Legislative Session in the Books

Legislators returned to the State Capitol this past January eager to put COVID in the rear-view mirror and get back to a normal legislative session. Frustrated by a shortened and truncated legislative session in 2020, legislators introduced some 2,400 new bills. However, when it became clear COVID safety protocols were going to continue to restrict access to the Capitol and legislative hearings, the leadership of both houses stepped in again this session to limit the number of bills that would be considered by legislators in 2021.

Managing the legislative process under COVID restrictions is challenging to say the least. Lobbying the Legislature remotely is difficult at best. Legislators were restricted to having only one staff member in the building for most of the legislative session and legislative offices restricted visitors to appointment-only or virtual meetings. Committees arranged for hearings that adhered to strict social distancing and cleaning protocols. While lobbyists had access to the Capitol and legislative hearing rooms, that access was restricted to only when necessary to testify or for a scheduled appointment. The Legislative Office Building, where most policy committee consultants are housed, was closed to lobbyists and the public. These restrictions made traditional lobbying almost impossible, which only underscored the need for bill limits.

As a result, each house implemented new rules to limit each legislator's bill package. There were no limits on the number of bills a legislator could introduce; however, each member was restricted to passing only 12 bills to the other house.

The 12-bill limit still allowed for almost 1,500 bills this session, but the result was substantially less. Overall, after policy and fiscal committees conducted hearings and floor votes were held in each house, the Assembly sent 526 bills to the Governor for consideration while the State Senate sent 313 bills to the Governor's office for signature.

The 2021 legislative session was shaped primarily by two political undercurrents at the State Capitol: a budget awash with cash, thanks to a booming stock market and federal aid; and a looming recall election asking voters to remove Governor Gavin Newsom from office. Other key issues were housing, homeless, wildfire, drought, broadband, and COVID-related employment safety measures.

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BUDGET

A massive budget surplus allowed Governor Newsom and legislative Democrats to pass a progressive agenda intended to help the state recover from COVID hardships. They approved a \$262.6 billion budget that included:

- free preschool for all 4-year-old children;
- lunch for all public-school students;
- state-funded health insurance for low-income undocumented immigrants aged 50 and older;
- grants for small business owners;
- rent and utility relief for people who fell behind on their bills; and
- \$600 stimulus payments for most Californians.

In addition, the state budget included funding for key legislative priorities including:

- \$12.2 billion for homeless mitigation
- \$6 billion for broadband expansion
- \$5.2 billion for drought projects
- \$5 billion for rent assistance
- \$2 billion for wildfire projects and mitigation
- \$2 billion for delinquent water and electrical bill subsidy
- \$1.5 billion for public clean-up efforts

SWIMMING POOL & SPA

For the swimming pool and spa industry, the reduction in bills meant there were fewer issues as well. Surprisingly, there were no challenging drought or water issues that faced the industry this session. Over \$5 billion was allotted to water, flood, and drought issues in the state budget; however, none of these directly affected the industry. Instead, key bills for the pool industry related to labor and employment issues and to contractors.

While the State Legislature was not necessarily the main focus of CPSA's government affairs efforts this session, local city ordinances relative to water use restrictions and decarbonization occupied much of the work. In addition, CPSA weighed in on California's newest proposed building standards.

California's current drought is perhaps the most severe in history. In just the first year of drought conditions, the state's major reservoirs are tittering at about 20% capacity where

historically they should be at 40%. Most of the state is considered to be in an exceptional or severe drought according to the U.S. Drought Monitor.

Governor Newsom has asked California residents to reduce water usage by 15% but has yet to impose mandatory water conservation targets for each city as his predecessor did during the state's last major drought only 4 years ago. That may well change now that the recall election is over and the state has entered a new water measuring year which started on October 1.

Several cities, especially in Northern California where drought conditions are the most severe, have voted to implement their updated Urban Water Management Plans (UWMP), which typically contain Water Shortage Contingency Plans (WSCP) and subsequent water reduction stages. Fortunately, most of these UWNPs and WSCPs do not contain any restrictions on the use of public water to fill new pools and spas until cities issue drought orders to implement Stage 4 or Stage 5 water reduction measures. Nonetheless, CPSA has thus far weighed in with 17 cities requesting they remove any restrictions on pools and spas as the facts demonstrate such restrictions do very little to save water. In addition, CPSA and PHTA have reinstated the Let's Pool Together public relations campaign that was so successful in fighting off such water restrictions during the last drought.

Without substantial rain in the upcoming fall and winter months, drought conditions for next year could be the most challenging ever for the swimming pool and spa industry.

In addition to drought issues, the state's quest to reduce greenhouse gases by implementing building electrification measures is an ongoing challenge to the industry. Over 40 California cities have implemented some form of local REACH codes designed to eliminate the use of natural gas and propane in residential and commercial buildings. In addition, the state has set aggressive decarbonization goals to be met by the years 2030 and 2045.

This year, CPSA continued its fight to oppose or obtain an exemption in local REACH codes for swimming pool and spa heaters and outdoor appliances or installations such as fire pits, fireplaces, barbeques, and outdoor kitchens. In most of the cities in which the association has engaged, over 15 altogether in 2021, obtaining an exemption has been an uphill fight. However, there have been two positive developments this year expected to help continued efforts.

The first development is that the California Energy Commission, which is under intense pressure from the environmental community, chose not to adopt codes for full electrification

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of new residential buildings for the 2022 California Building Codes, effective January 1, 2023. Instead, the commission staff deferred that decision until at least the 2025 triennial building code cycle.

Rather than full electrification, the commission voted to require builders to install either heat pump HVAC systems or a heat pump water heater in all new home construction beginning January 1, 2023. In addition, the commission ordered additional solar improvements, wiring for future electrical appliances, and improved ventilation for gas appliances. The new building codes will go into effect in the more than 400 California cities that have not adopted their own stricter REACH codes.

The second positive development is that, for cities that have adopted REACH codes banning or restricting the use of natural gas, CPSA has had success in obtaining limited infeasibility exceptions, for both commercial and residential projects, that will allow for use of natural gas water heaters where electric or heat pump water heaters are infeasible to do the job.

WORKERS' COMPENSATION

Workers' compensation was not expected to be a top-tier issue for 2021; however, the state's powerful firefighters' union had another view. The union sponsored three bills, which were strongly opposed by employers, self-insured public entities, and insurers. AB 1465 sought to create a statewide Medical Provider Network (MPN) that would have undermined prior workers' compensation reforms allowing employers to choose and negotiate rates with medical providers. Fortunately, AB 1465 was turned into a study bill requiring the Commission on Health and Safety and Workers' Compensation to conduct a study relative to delays and access to care issues in medical provider networks.

SB 335 would have reduced from 90 days to 45 days the time an employer or insurer must accept or reject a claim for a workplace injury. The bill would have also raised the total amount an employer would have to pay for medical care during the claim determination period and substantially increased the penalty on an employer for an unreasonable delay in providing benefits.

Lastly, SB 284 would have made post-traumatic stress a workplace injury for all active firefighters and police personnel. The bill would only apply prospectively to individuals for injuries occurring on or after January 1, 2022.

HOUSING

In a fight that pitted realtors, landlords, builders, and developers against opposition from local governments, the Legislature passed SB 9 and SB 10.

SB 9 allows most homeowners across the state to build two houses or a duplex where now only one house is allowed. The bill, carried by a team of Democrats led by Senate leader Toni Atkins of San Diego, would also permit eligible homeowners to split their lot and add two more units on the second parcel — provided each unit is at least 1,200 square feet and outside fire hazard zones or historic districts. Owners would have to stay in their homes for at least three years after splitting their lots. The bill effectively eliminates single-family zoning which is the norm throughout California by allowing up to four housing units per parcel.

SB 10 by San Francisco Democratic Senator Scott Wiener would enable a local government to rezone single-family parcels to allow as many as 10 units near public transit hubs and within urban areas. The bill creates a voluntary process for local governments to simplify California Environmental Quality Act (CEQA) requirements for streamlining the process for multi-unit housing projects up to 10 housing units per parcel.

Both SB 9 and SB 10 would allow homeowners and developers to skip lengthy review processes, but projects would still ultimately be subject to final approval by the city.

In addition to these two major housing affordability bills, the Legislature also passed:

AB 215 adds additional pressure on locals by creating benchmarks for housing targets that cities must meet, or be forced to adopt a new pro-development policy should they fail to hit those targets.

SB 791 creates the California Surplus Land Unit — a new team of state employees tasked with helping local city councils, county boards of supervisors, and school districts turn their unused government-owned land into housing.

SB 478 tweaks zoning rules to make it harder for local governments to block certain small apartment buildings between 3 and 10 units.

SB 290 provides developers with incentives to build affordable units for low-income college students.

AB 602 reforms the way cities charge developers fees to build in an attempt to make it more affordable to create housing.

SECRET SETTLEMENTS

Businesses concerned about protecting themselves against reputational harm often use non-disclosure agreements to resolve employee severance situations. These agreements are often criticized as a way for bad employers to cover up illegal discrimination or harassment in the workplace.

Supported by the Legislative Women’s Caucus and victim groups, SB 331 would ban employers from using secret settlements to prevent workers from speaking out about illegal harassment or discrimination, with some limited exceptions. The bill builds on a law passed in 2018, which limited the use of non-disclosure agreements to settle cases of sexual discrimination, harassment, or assault.

EMPLOYMENT & COVID SAFETY

Organized labor groups backed several key bills this session aimed at protecting their members experiencing COVID-related employment situations. These included:

AB 123 would have increased the wage replacement rate for paid family leave (PFL) claims commencing after January 1, 2023, but before January 1, 2025, to 65% or 75%; and for claims commencing after January 1, 2025, to 70% or 90%.

AB 1003 creates a new type of grand theft for the intentional theft of wages.

SB 93 requires specified employers (hotel and airport), within 5 days of establishing a position, to offer its laid-off employees in writing and by email and text message all job positions that become available after the effective date of this bill for which the laid-off employees are qualified.

SB 95 provides supplemental paid sick leave for covered employees who are unable to work or telework due to certain reasons related to COVID-19, including that the employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.

SB 606 establishes a rebuttable presumption that an employer who has multiple worksites has committed an enterprise-wide violation if either the employer has a written policy or procedure that violates Section 25910 of the Health and Safety Code or specified divisions of the Labor Code; or the California Division of Occupational Safety and Health (Cal/OSHA) has evidence of a pattern or practice of the same violation or violations involving more than one of the employer's worksites.

SB 639 requires the development of a plan to phase out the use of the subminimum wage certificate program, which authorizes employers to pay less than minimum wage for employees with physical or mental disabilities, by January 1, 2025.

CONTRACTOR ISSUES

There were a number of bills this session affecting contractors, including those in the swimming pool and spa industry.

First and foremost was SB 736 which sought to expand California statute to protect young children from drowning in residential swimming pools. As a way to address compliance with pool safety laws when residential properties are sold, the bill would have required home inspectors, during a real estate transaction, to forward to both the buyer's mortgage and insurance companies the inspection reports indicating a home was not compliant with the installation of 2 of the 7 California-authorized pool safety devices. It also would have required home inspectors to be certified and to take continuing education classes relative to drowning prevention and the California Pool Safety Act. Lastly, the bill would have encouraged the primary use of an isolation fence or removable isolation mesh fencing and would have specified that requirements under the California Pool Safety Act, that require a pool or spa to be equipped with at least 2 of the 7 drowning prevention safety features, are not met by an exit alarm and self-closing, self-latching device used on the same door or on 2 separate doors that provide access to the swimming pool or spa. This bill was shelved by the author for 2021 due to bill limitations imposed on each legislator but is expected to return in 2022.

Other key bills include:

SB 304 sought to increase the amount of authorized work by an individual that is exempted from licensure requirements under the Contractors State License Law from \$500 to \$1,000;

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AB 246 authorizes the Contractors State License Board (CSLB) to take disciplinary action against a licensee for the improper disposal of contractor-related materials/debris if such disposal is a violation determined by a local government or agency;

AB 569 increases the civil penalty limit from \$5,000 to \$8,000 for violations of the Contractors State License Law, notwithstanding the administrative fine maximum, and increases the enhanced civil penalty limit from \$15,000 to \$30,000. The bill also expands the enhanced civil penalty limit to apply to certain violations relating to workers' compensation insurance coverage;

SB 297 increases penalties for operators or excavators who cause damage to a gas or hazardous liquid pipeline subsurface installation that results in the escape of any flammable, toxic, or corrosive gas or liquid. The resulting civil penalty is not to exceed \$100,000;

AB 107 requires, on or after January 1, 2023, any board within the Department of Consumer Affairs (DCA), including the Contractors State License Board, to issue temporary licenses to the spouses of active-duty members of the United States Armed Forces to practice a profession or vocation. The bill requires an applicant for a temporary license to provide documentation to the board that the applicant has passed a California law and ethics examination, if required by the board for the profession or vocation for which the applicant seeks licensure; and

AB 768 which requires the Division of Boating and Waterways and the State Department of Public Health to develop an aquatic and pool safety program to be made available for use at local educational agencies that serve pupils in kindergarten or any grades 1 through 12.

HEALTHCARE

With all the attention on COVID healthcare issues generally, it was somewhat surprising there were fewer healthcare-related bills this session. There was certainly a noticeable reduction in the number of health care mandates introduced this year. Some of the key health care bills included:

AB 97 sought to prohibit a health care service plan or a health disability insurance policy from imposing a deductible on an insulin prescription drug.

AB 570 requires health insurance plans to make coverage available to their members' dependent parents. If signed into law, California would be the first state to expand this benefit to include parents. Initially, AB 570 was strongly opposed by the major health plans,

insurers, and employer organizations. That opposition was removed when the bill was amended to apply only to private state-regulated health plans, exempting employer-sponsored plans.

AB 1130 would have created the Office of Health Care Affordability, which would have analyzed the health care market for cost trends and drivers of spending, created a state strategy for controlling the cost of health care, and ensured affordability for consumers and purchasers, and enforced cost targets. This measure was stalled with the intention of the language going into a trailer bill; however, negotiations failed so the budget trailer bill never materialized.

AB 1400 would have created a new single-payer government-run, multibillion-dollar health care system financed by an unspecified and undeveloped "revenue plan."

SB 568 would have prohibited a deductible requirement for a covered prescription drug as well as certain equipment and supplies and would have limited the amount paid for the benefit to no more than the amount of the copayment or coinsurance specified in the applicable summary of benefits and coverage.

INITIATIVES

There is also a full slate of over 30 initiatives filed this year in hopes to make the November 2022 General Election ballot. There is no doubt some of these initiatives will appear on the ballot, as filed or amended. Some of the more ambitious proposals seek to abolish public employee unions; regulate kidney dialysis centers for a third consecutive attempt; and eliminate the caps on medical malpractice liability, a major fight ongoing between doctors and lawyers.

The vast majority of the current active initiatives were filed since the beginning of August, which include proposals to break up the California Public Utilities Commission, require a person to show a government-issued identification in order to vote, prohibit new permits for hydraulic fracking, allow a jury trial for child custody and dependency actions, provide for medical freedom from mandates, prohibit job discrimination for those who exercise such freedoms, make it tougher for government to impose new fees and taxes, and two separate "split-roll" initiatives designed to increase tax deductions for renters and heads of households while adding a surcharge on certain property tax bills for high value residential and

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commercial properties to raise additional funds for local governments and pay for the renters' tax credits.

Other initiatives have been filed by organizations to influence legislation or to push the Legislature to address a specific issue. These include three initiatives on the topic of legalizing some form of sports betting, three initiatives filed intending to direct more public dollars to school savings accounts for individual students, and another three tort reform initiatives seeking to limit lawyer contingency fees. The initiatives on lawyer contingency fees would also allow the claimant to pay a contingency fee pursuant to a contract or authorize their attorney to seek a contingency fee from the court and require a 60-day waiting period to resolve claims before a lawsuit can be filed.

Lastly, there are two significant referendums on the ballot seeking to overturn legislation passed in 2020 that banned the sale of flavored tobacco and overturn legislation that mostly eliminated the cash bail system in California.

CONCLUSION

Despite a very progressive agenda of bills and budget items, the looming recall election of Governor Newsom accounted for many bills being shelved until next year to keep these issues from becoming fodder for the recall.

These bills included single-payer healthcare, legalizing psychedelic drugs and clinics where addicts can use illegal drugs, legislation to overhaul the bail system and allow more offenders to have their criminal records expunged, a bill to provide for hazard pay for essential COVID workers, increase the number of days of paid sick leave, expand family leave by allowing the addition of a designated individual for care, and legislation mandating employers with 1,000 or more employees to report worker-related statistics on an annual basis to the Labor and Workforce Development Agency (LWDA).

With COVID-19 and the Delta variant infections falling perceptibly in the state, expect the second year of the 2021-22 legislative session to be back closer to normal. Although many of the bills not passed in 2021 would be eligible to be heard in January of 2022, many will likely be reintroduced as new bills because the legislative deadlines for two-year bills are extremely difficult to meet. With many bills parked on the Inactive File in their own house to meet bill limit requirements imposed by leadership, more bills are better positioned in the process to be moved in January 2022, making for unique circumstances for an abnormally high bill load next year.

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A good case can be made that top-tier issues for next year will be water, wildfire, and workers' compensation, especially if there is little rain and a continuing active fall wildfire season. Workers' compensation and labor-related bills are always key areas for legislation. Since many of the workers' compensation bills this year stalled or were vetoed, there is a good chance organized labor interests, who contributed some \$25 million to oppose the recall election, will push hard for change.

Finally, with the myriad of budget expenditures this session, legislators and policy committees may well commit substantial time and effort to conduct oversight hearings to ensure the Administration is accomplishing the intended objectives. We have a lot to watch on the horizon in the 2022 Legislative year and, as usual, we will cover it all.

LEGISLATIVE SUMMARIES

BUSINESS AND CONTRACTOR ISSUES

AB 107 - Licensure: veterans and military spouses.

Rudy Salas, Democrat - Bakersfield

This bill, on and after January 1, 2023, requires any board within the Department of Consumer Affairs (DCA) to issue temporary licenses to the spouses of active-duty members of the United States Armed Forces to practice a profession or vocation. The bill requires an applicant for a temporary license to provide to the board documentation that the applicant has passed a California law and ethics examination if otherwise required by the board for the profession or vocation for which the applicant seeks licensure.

Final Votes

Assembly: 76-0

Senate: 37-0

Result: Passed by the Legislature and signed by the Governor. Chaptered by Secretary of State - Chapter 693, Statutes of 2021. Included an urgency clause and became effective on October 8, 2021.

AB 246 - Contractors: disciplinary actions.

Bill Quirk, Democrat – Hayward

This bill authorizes the Contractors State License Board (CSLB) to take disciplinary action against a licensee for the improper disposal of contractor-related materials/debris if such disposal is a violation determined by a local government or agency.

Final Votes

Assembly: 76-0

Senate: 39-0

Result: Passed by the Legislature and signed by the Governor. Chaptered by Secretary of State - Chapter 46, Statutes of 2021.

AB 247 - COVID-19 emergency: small businesses: nonprofit organizations: immunity from civil liability.

James Ramos, Democrat - Highland

This bill would have exempted a small business or nonprofit organization with 100 or fewer employees from liability for an injury or illness to a consumer due to coronavirus (COVID-19) based on a claim that the consumer contracted COVID-19 while at that small business or nonprofit organization, or due to the actions of that small business or nonprofit organization. The bill would have required the small business

or nonprofit organization, for this exemption to apply, to have implemented and substantially complied with all applicable state and local health laws, regulations, and protocols.

Result: Stalled in the Assembly Judiciary Committee without hearing and is a 2-year bill. Must be heard and passed out of the Assembly in January 2022 for further consideration.

AB 569 - Contractors: civil penalties: letters of admonishment.

Tim Grayson, Democrat - Concord

This bill, for violations of the Contractors State License Law, increases the civil penalty limit from \$5,000 to \$8,000, notwithstanding the administrative fine maximum, and would increase the enhanced civil penalty limit from \$15,000 to \$30,000. The bill also expands the enhanced civil penalty limit to apply to certain violations relating to workers' compensation insurance coverage.

Final Votes

Assembly: 76-0

Senate: 39-0

Result: Passed by the Legislature and signed by the Governor. Chaptered by Secretary of State - Chapter 94, Statutes of 2021.

AB 768 - School safety: aquatic and pool safety program: model policy.

Chris Holden, Democrat – Pasadena

This bill would have required the Division of Boating and Waterways and the State Department of Public Health to develop an aquatic and pool safety program to be made available for use at local educational agencies that serve pupils in kindergarten or any grades 1 through 12.

Result: Stalled in the Assembly Education Committee without hearing and is a 2-year bill.

SB 31 - Building decarbonization.

Dave Cortese, Democrat – San Jose

This bill would have required the California Energy Commission (CEC) to implement programs to promote existing and new building decarbonization, and award funds for building decarbonization technologies and investments that reduce or eliminate greenhouse gas generation in those buildings. It also would have required the entity implementing the decarbonization project and its subcontractors to pay prevailing wage in order to receive funding.

Result: This bill was held in the Senate Appropriations Committee on the Suspense File. May be taken up in January 2022.

SB 32 - Energy: general plan: building decarbonization requirements.

Dave Cortese, Democrat – San Jose

This bill would have required each city and county to make a one-time amendment to its general plan, climate action or greenhouse gas (GHG) reduction plan, or building standards during the next update occurring after January 1, 2023, to identify goals and strategies to decarbonize new buildings. The bill would have authorized the State Energy Resources Conservation and Development Commission (CEC) to review the proposed amendments and provide specified feedback to the city or county.

Result: This bill was held in the Senate Appropriations Committee on the Suspense File. May be taken up in January 2022.

SB 297 - Subsurface installations: penalties.

Maria Elena Durazo, Democrat – Los Angeles

This bill increases penalties for operators or excavators who cause damage to a gas or hazardous liquid pipeline subsurface installation that results in the escape of any flammable, toxic, or corrosive gas or liquid. The resulting civil penalty is not to exceed \$100,000.

Final Votes

Assembly: 65-0

Senate: 39-0

Result: Passed by the Legislature and signed by the Governor. Chaptered by Secretary of State - Chapter 726, Statutes of 2021.

SB 304 - Contractors: exemptions.

Bob Archuleta, Democrat – Pico Rivera

This bill would have increased the amount of authorized work, which exempts an individual from licensure requirements under the Contractors State License Law (License Law), from \$500 to \$1000.

Result: Stalled in the Senate Appropriations Committee. May be taken up in January 2022.

SB 736 - Public safety: pools and spas: drowning prevention: home inspectors.

Josh Newman, Democrat – Fullerton

This bill would have encouraged the use of an isolation fence or removable isolation mesh fencing and would have specified that requirements under the Swimming Pool Safety Act, that require a pool or spa to be equipped with at least 2 of 7 drowning prevention safety features, are not met by an exit alarm and a self-closing, self-latching device used on the same door or on 2 separate doors that provide access to the swimming pool or spa.

Result: Stalled in the Senate Housing Committee. May be taken up in January 2022

CLIMATE & ENVIRONMENT

AB 284 - California Global Warming Solutions Act of 2006: climate goal: natural and working lands.

Robert Rivas, Democrat - Salinas

This bill would have required the California Air Resources Board (CARB) to identify a 2045 climate goal, with interim milestones, for the state's natural and working lands to sequester carbon and reduce atmospheric greenhouse gas emissions. It also would have required CARB, no later than January 1, 2024, to develop standard methods for state agencies to consistently track greenhouse gas emissions reduction, carbon sequestration, and, where feasible, additional benefits from natural and working lands over time.

Result: Ordered to the Inactive File in the Senate by the floor manager. Eligible to be taken up in January 2022.

AB 441 - Recreational water use: wave basins.

Chad Mayes, Independent – Rancho Mirage

This bill would have defined and established under the supervision of the State Department of Public Health, standards for "wave basins," defined as an artificially constructed body of water within an impervious water containment structure incorporating the use of a mechanical device principally designed to generate waves for surfing on a surfboard or analogous surfing device commonly used in the ocean and intended for sport.

Result: Held on the Suspense File in the Senate Appropriations Committee as a 2-year bill and may be moved forward next year.

AB 1201 - Solid waste: products: labeling: compostability and biodegradability.

Phil Ting, Democrat - San Francisco

This bill expands product labeling requirements related to biodegradability and compostability from "plastic products" to "products." It also prohibits a person from selling a product in California that is labeled with the term "compostable" or "home compostable" unless the product has specified certification from a CalRecycle-approved third-party, is an allowable organic input under the requirements of the United States Department of Food and Agriculture (USDA) National Organic Program (NOP), does not contain perfluoroalkyl or polyfluoroalkyl substances (PFAS) above a specified limit, is labeled in a manner that distinguishes the product from a noncompostable product, and is designed to be associated with the recovery of desirable organic wastes.

Final Votes

Assembly: 79-0

Senate: 32-2

Result: Passed by the Legislature and signed by the Governor. Chaptered by Secretary of State - Chapter 504, Statutes of 2021.

AB 1434 - Urban water use objectives: indoor residential water use.

Laura Friedman, Democrat – Glendale

This bill would have lowered the indoor residential water use standard gradually from the current 55 gallons per capita daily (gpcd) to 40 gpcd beginning January 1, 2030.

Result: Stalled in the Assembly Education Committee when the hearing was canceled at the request of the author. May be taken up in January 2022.

AB 1500 - Safe Drinking Water, Wildfire Prevention, Drought Preparation, Flood Protection, Extreme Heat Mitigation, and Workforce Development Bond Act of 2022.

Eduardo Garcia, Democrat – Coachella

This bill, subject to approval by the voters, would have enacted the Safe Drinking Water, Wildfire Prevention, Drought Preparation, Flood Protection, Extreme Heat Mitigation, and Workforce Development Bond Act of 2022, to authorize the issuance of \$7.08 billion in general obligation bonds to finance projects for safe drinking water, wildfire prevention, drought preparation, flood protection, extreme heat mitigation, and workforce development.

Result: Stalled in the Assembly Rules Committee. May be taken up in January 2022.

SB 786 - Santa Clara Valley Water District.

Josh Becker, Democrat – Menlo Park

This bill would have allowed the Santa Clara Valley Water District to issue general obligation bonds to finance infrastructure projects and to make revenue bonds payable based on net revenues after the payment of the operation and maintenance costs of the water system. It also would have removed the \$8 million limit on short-term debt the District can authorize without holding an election and, instead, limited the District to 85% of the estimated amount of the revenues, charges, taxes, and assessments of or allocable to the District.

Result: Stalled in the Assembly Local Government Committee. May be taken up in January 2022

EMPLOYMENT AND LABOR

AB 95 - Employees: bereavement leave.

Evan Low, Democrat - San Jose

This bill would have enacted the Bereavement Leave Act of 2021 to require an employer with 25 or more employees, including any public sector employer, to provide up to 10 business days of unpaid bereavement leave upon the death of a spouse, child, parent, parent-in-law, sibling, grandparent, grandchild, or domestic partner. The bill would have required an employer with fewer than 25 employees to grant a request by any employee to take up to 3 business days of leave.

Result: Held on the Suspense File in the Senate Appropriations Committee as a 2-year bill and may be moved forward next year.

AB 123 - Paid family leave: weekly benefit amount.

Lorena Gonzalez, Democrat - San Diego

This bill revises the formula for determining benefits available pursuant to the family temporary disability insurance program. For claims commencing after January 1, 2023, this bill increases the wage replacement rate for paid family leave (PFL) to 65% for employees making more than 70% of the statewide average weekly wage and 75% for employees making less than 70% of the statewide average weekly wage. For claims commencing after January 1, 2025, this bill increases the wage replacement to 70% for employees making more than 70% of the statewide average weekly wage, and to 90% wage replacement for employees making less than 70% of the statewide average weekly wage.

Final Votes

Assembly: 68-0

Senate: 32-0

Result: Passed by the Legislature and vetoed by the Governor. Veto message found in Appendix A.

AB 654 - COVID-19: exposure: notification.

Eloise Gómez Reyes, Democrat - San Bernardino

This bill clarifies and strengthens provisions enacted in 2020 relating to workplace COVID-19 exposure notifications, which (1) adds renewable natural gas to the list of utilities that the Division of Occupational Safety and Health (Cal/OSHA) are not allowed to interrupt; (2) requires employers, when giving notice to the local public health agency of a COVID-19 outbreak, to give that notice within 48 hours or one business day, whichever is later; and (3) enacts a sunset date of January 1, 2023 on these provisions.

This bill is a clean-up of last year's AB 685 (Reyes), which enacted the reporting requirements relating to COVID-19 now in Labor Code § 6409.6. Significantly, AB 685 did not have a sunset date. By adding one, this likely means that this issue will return to the Legislature's agenda in 2022.

Final Votes

Assembly: 64-0

Senate: 37-0

Result: Passed by the Legislature and signed by the Governor. Chaptered by Secretary of State - Chapter 522, Statutes of 2021. Included an urgency clause and became effective on October 5, 2021.

AB 995 - Paid sick days: accrual and use.

Lorena Gonzalez, Democrat - San Diego

This bill would have modified an employer's alternate sick leave accrual method to require that an employee have no less than 40 hours of accrued sick leave or paid time off by the 200th calendar day of employment or each calendar year, or in each 12-month period. This bill also would have increased an employer's authorized limitation on the employee's use of carryover sick leave to 40 hours or five days and amended the schedule for in-home supportive services providers to increase the sick leave accrual maximum to 40 hours or five days in each year of employment.

Result: Ordered to the Inactive File in the Assembly by the author to meet this year's 12-bill limit imposed by leadership. Eligible to be taken up in January 2022.

AB 1003 - Wage theft: grand theft.

Lorena Gonzalez, Democrat - San Diego

This bill creates a new type of grand theft for the intentional theft of wages in an amount greater than \$950 from any one employee, or \$2,350 in the aggregate from two or more employees, by an employer in any consecutive 12-month period. It would define "theft of wages" as the intentional deprivation of wages, gratuities, benefits, or other compensation by unlawful means with the knowledge that the wages, gratuities, benefits, or other compensation is due to the employee under the law.

This bill started as a CalChamber Job Killer since it initially would have criminalized employers, managers, and supervisors who, in good faith, make a mistake in the application of the law that sparks disagreement over interpretation between the Labor Commissioner and the courts. It was removed as a Job Killer since it was amended to only criminalize fraudulent and knowingly unlawful conduct.

Final Votes

Assembly: 78-0

Senate: 38-0

Result: Passed by the Legislature and signed by the Governor. Chaptered by Secretary of State - Chapter 325, Statutes of 2021.

AB 1033 - California Family Rights Act: parent-in-law: small employer family leave mediation: pilot program.

Rebecca Bauer-Kahan, Democrat - Orinda

This bill modifies procedural aspects of the Department of Fair Employment and Housing's (DFEH's) pilot program for mediating family leave disputes between small businesses and their employees to ensure that employers are aware of their option to require employees to participate prior to filing a civil action. In addition, the bill clarifies that employers covered under the California Family Rights Act (CFRA) must grant eligible employees up to 12 weeks of job-protected time off from work annually for the purpose of providing care to a parent-in-law with a serious medical condition.

Final Votes

Assembly: 79-0

Senate: 38-0

Result: Passed by the Legislature and signed by the Governor. Chaptered by Secretary of State - Chapter 327, Statutes of 2021.

AB 1041 - Employment: leave.

Buffy Wicks, Democrat - Oakland

This bill would have added a "designated person" to the list of individuals for whom an employee may take leave to care for under the California Family Rights Act (CFRA) and the Healthy Workplaces, Healthy Families Act of 2014 to include a designated person by the employee. This bill also would have allowed employers to limit the employee to one designated person per 12-month period.

Prior to the final version, the bill was designated a CalChamber Job Killer since it would have significantly expanded multiple existing leave requirements in California that apply to employers of five or more by allowing an employee to take leave to care for any family member or any member of their choosing without limitation. CalChamber removed the bill from its Job Killer list after the bill was limited to only one designated person for which a person could take leave per 12-month period.

Result: Ordered to the Inactive File in the Senate by the floor manager. Eligible to be taken up in January 2022.

AB 1074 - Employment: displaced workers.

Lorena Gonzalez, Democrat - San Diego

This bill changes the name of the “Displaced Janitor Opportunity Act” to the “Displaced Janitor and Hotel Worker Opportunity Act” and would extend the provisions to hotel workers. The bill redefines “awarding authority” to include any person that awards or otherwise enters into contracts for hotel services, which include guest service food and beverage service, or cleaning service, performed within the state.

This was another bill that was initially a CalChamber Job Killer. The original version of the bill would have imposed a burdensome and strict process on specific employers to return employees to the workforce and could have delayed rehiring and, ultimately, reopening of those specified industries. The Job Killer tag was removed when amendments removed a rehire mandate that would have included certain employees released within the 12 months that preceded the COVID-19 pandemic.

Final Votes

Assembly: 51-19

Senate: 23-12

Result: Passed by the Legislature and vetoed by the Governor. Veto message found in Appendix B.

AB 1119 - Employment discrimination.

Buffy Wicks, Democrat - Oakland

This bill would have expanded the list of protected characteristics under the Fair Employment and Housing Act (FEHA) to include “family responsibilities,” defined as an obligation to provide ongoing care to a minor child or “care recipient.” It would also have required an employer to make reasonable accommodation for an employee’s obligations arising from an unforeseen need to care for a minor child or care recipient whose school or place of care is closed or otherwise unavailable, unless doing so would result in an undue hardship, and prohibited retaliation or discrimination against a person requesting accommodation.

If this bill were not held, it likely would have exposed employers to costly litigation under the Fair Employment Housing Act that any adverse employment action was in relation to the employee's family responsibilities, rather than a violation of employment policies.

Result: This bill was held in the Assembly Appropriations Committee on the Suspense File.

SB 93 - Employment: rehiring and retention: displaced workers: COVID-19 pandemic.

Committee on Budget and Fiscal Review

This bill requires an employer a specified enterprise, within five days of establishing a position, to offer its laid-off employees in writing and by email and text message all job positions that become available after the effective date of this bill for which the laid-off employees are qualified. Enterprises specified in this bill are hotels, private clubs, event centers, airport hospitality operations, airport service providers, or the provisions of building service to office, retail, or other commercial buildings. The bill defines the term "laid-off employee" to mean any employee who was employed by the employer for 6 months or more in the 12 months preceding January 1, 2020, and whose release from employment was related to the COVID-19 pandemic. The bill also requires an employer to keep specified records for 3 years.

Final Votes

Assembly: 54-19

Senate: 25-11

Result: Passed by the Legislature and signed by the Governor. Chaptered by Secretary of State - Chapter 16, Statutes of 2021. Included an urgency clause and became effective on April 16, 2021.

SB 95 - Employment: COVID-19: supplemental paid sick leave.

Nancy Skinner, Democrat - Berkeley

This bill provides supplemental paid sick leave for covered employees who are unable to work or telework due to certain reasons related to COVID-19, including that the employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19. The bill entitles a covered employee to 80 hours of COVID-19 supplemental paid sick leave for specified full-time employees. The bill provides a different calculation for supplemental paid sick leave for a covered employee who is a firefighter subject to certain work schedule requirements and for a covered employee working fewer or variable hours.

Final Votes

Assembly: 57-19

Senate: 29-8

Result: Passed by the Legislature and signed by the Governor. Chaptered by Secretary of State - Chapter 13, Statutes of 2021. Included an urgency clause and became effective on March 19, 2021.

SB 331 - Settlement and nondisparagement agreements.

Connie Leyva, Democrat - Chino

This bill prohibits the use of non-disclosure agreements (NDAs) to settle employment and housing-related legal claims involving unlawful harassment, discrimination, or related retaliation of any kind, with limited exceptions when requested by the complainant. This bill also prohibits the inclusion of terms that prohibit the separated employee from discussing unlawful conduct at their former workplace in an employment severance agreement, unless the separated employee agrees to those terms under specified conditions designed to safeguard the separated employee's rights.

Supported by the Legislative Women's Caucus and victim groups, this is a follow-up to SB 830 (2018), also authored by Senator Leyva, to prohibit the use of settlements and agreements for workplace sexual harassment. SB 331 will limit the use and scope of severance agreements, subjecting employers to threats of litigation for any alleged violation. Throughout the legislative process, amendments narrowed the bill and, in the final version, specified an amount of a severance agreement that may be kept confidential.

Businesses concerned about protecting themselves against reputational harm often use non-disclosure agreements to resolve employee severance situations. These agreements are often criticized as a way for bad employers to cover up illegal discrimination or harassment in the workplace.

Final Votes

Assembly: 58-13

Senate: 30-8

Result: Passed by the Legislature and signed by the Governor. Chaptered by Secretary of State - Chapter 638, Statutes of 2021.

SB 572 - Labor Commissioner: enforcement: lien on real property.

Robert Hertzberg, Democrat - Los Angeles

This bill authorizes the Labor Commissioner to create, as an alternative to a judgment lien, a lien on real property to secure amounts due to the commissioner under any final citation, findings, or decision. It also requires the Labor Commissioner to issue a certificate of release upon payment of the amount due,

including any interest and costs that have lawfully accrued on the original amount, and allows a lien to continue for 10 years after its creation, subject to renewal for additional 10-year periods.

Final Votes

Assembly: 68-6

Senate: 39-0

Result: Passed by the Legislature and signed by the Governor. Chaptered by Secretary of State - Chapter 335, Statutes of 2021.

SB 606 - Workplace safety: violations of statutes: enterprise-wide violations: employer retaliation.

Lena Gonzalez, Democrat - Long Beach

This bill establishes a rebuttable presumption that an employer who has multiple worksites has committed an enterprise-wide violation if either the employer has a written policy or procedure that violates Section 25910 of the Health and Safety Code or specified divisions of the Labor Code; or the California Division of Occupational Safety and Health (Cal/OSHA) has evidence of a pattern or practice of the same violation or violations involving more than one of the employer's worksites. It also prohibits Cal/OSHA from issuing a notice instead of a citation if the employer's violations are serious, willful, or arise from a failure to abate, or the number of first instance violations found in the inspection is 10 or more. The bill caps the civil penalty on an employer for an enterprise-wide violation at \$123,709.

A written policy or procedure does not form the basis for an enterprise-wide citation if it violates an emergency regulation adopted or amended within the last 30 days, commencing from the date of the vote of the standards board on the emergency regulation.

Additionally, the bill would authorize the Cal/OSHA, in the investigation of the policies and practices of an employer or a related employer entity, to issue a subpoena if the employer or the related employer entity fails to promptly provide the requested information, and to enforce the subpoena if the employer or the related employer entity fails to provide the requested information within a reasonable period of time.

Final Votes

Assembly: 53-19

Senate: 27-10

Result: Passed by the Legislature and signed by the Governor. Chaptered by Secretary of State - Chapter 336, Statutes of 2021.

SB 657 - Employment: electronic documents.

Rosilicie Ochoa Bogh, Republican - Yucaipa

This bill allows employers, in any instance the employer is required to physically post information, to additionally distribute required information to employees by email with the document or documents attached. Additionally, this bill clarifies that email distribution or relevant documents pursuant to the proposed statute does not alter the employer's obligation to physically display the required posting.

Final Votes

Assembly: 77-0

Senate: 36-0

Result: Passed by the Legislature and signed by the Governor. Chaptered by Secretary of State - Chapter 109, Statutes of 2021.

SB 727 - Labor-related liabilities: direct contractor.

Connie Leyva, Democrat - Chino

This bill establishes that a direct contractor taking a contract in the state for the erection, construction, alteration, or repair of a building, structure, or other private work, shall assume, and is liable for, any debt owed to a wage claimant incurred by a subcontractor acting under the direct contractor. This bill also requires the direct contractor must monitor the payment of subcontractor wages by periodic review of payroll records, corrective action to halt or rectify the failure of any unpaid wages upon becoming aware, and must obtain an affidavit from the subcontractor affirming that all workers have been properly paid, otherwise becomes liable for penalties and liquidated damages. This bill does not prohibit a direct contractor or subcontractor from establishing a contract that addresses liability created by the failure to pay wages, including penalties and liquidated damages.

Final Votes

Assembly: 60-18

Senate: 27-9

Result: Passed by the Legislature and signed by the Governor. Chaptered by Secretary of State - Chapter 338, Statutes of 2021.

TAXES AND FEES

AB 80 - Taxation: Coronavirus Aid, Relief, and Economic Security Act: Federal Consolidated Appropriations Act, 2021.

Autumn Burke, Democrat - Inglewood

This bill allows forgiven Paycheck Protection Program (PPP) loans under the Coronavirus Aid, Relief, and Economic Security (CARES) Act, the Paycheck Program and Health Care Enhancement Act, the PPP Flexibility Act of 2020, and the Consolidated Appropriations Act of 2021 to be excluded from gross income for taxable years beginning on or after January 1, 2019. It also conforms state law to federal law to exclude an Economic Injury Disaster Loan (EIDL) advance grant from gross income pursuant to the CARES Act and the Consolidated Appropriations Act of 2021 for taxable years beginning on or after January 1, 2019, and conforms state law to federal law with respect to the tax treatment of EIDL advance grants and forgiven PPP loans.

Final Votes

Assembly: 75-0

Senate: 37-0

Result: Passed by the Legislature and signed by the Governor. Chaptered by Secretary of State - Chapter 17, Statutes of 2021. Included an urgency clause and became effective on April 29, 2021.

SB 49 - Income taxes: credits: California Fair Fees Tax Credit.

Tom Umberg, Democrat - Santa Ana

This bill would have, for taxable years 2021 through 2026, allowed qualified taxpayers to claim the "California Fair Fees Tax Credit," and carry forward any unused credits for up to seven years. A qualified taxpayer would be a business that required substantial in-person contact to conduct its business operation, temporarily ceased business operations for at least 30 consecutive days during the taxable year in response to an emergency order, and had gross receipts of \$10 million or less over the three preceding taxable years.

Result: Ordered to the inactive file at the request of the author.

SB 87 - California Small Business COVID-19 Relief Grant Program: income tax: gross income: exclusion: small business grants.

Anna Caballero, Democrat - Salinas

This bill establishes the California Small Business COVID-19 Relief Grant Program within the California Office of Small Business Advocate (CalOSBA) to assist qualified small businesses affected by COVID-19 through the administration of grants. This program provides grants of up to \$25,000 to qualified small businesses, nonprofits, and eligible nonprofit cultural institutions. Qualified small businesses and nonprofits cannot have annual gross revenue higher than \$2.5 million.

Final Votes

Assembly: 77-0

Senate: 38-0

Result: Passed by the Legislature and signed by the Governor. Chaptered by Secretary of State - Chapter 7, Statutes of 2021. Included an urgency clause and became effective on February 23, 2021.

WORKERS' COMPENSATION

AB 1465 - Workers' compensation: medical provider networks study.

Eloise Gómez Reyes, Democrat - San Bernardino

This bill would have required the Commission on Health and Safety and Workers' Compensation to submit a study to the Legislature, the committees of the Senate and Assembly with jurisdiction over workers' compensation, and the Division of Workers' Compensation on delays and access to care issues in medical provider networks. The study would have compared data for injury claims in which a worker was treated by a medical provider network to that data for injury claims in which a worker was treated by a provider who is not part of a medical provider network.

In a prior version of the bill, AB 1465 would have mandated the creation of state-run Medical Provider Network for workers' compensation claims. That version would have imposed millions of dollars of costs on the current system as well as the state while reducing injured workers' access to quality care.

Result: Stalled in the Senate Labor, Public Employment & Retirement Committee and is a 2-year bill.

SB 216 - Contractors: workers' compensation insurance: mandatory coverage.

Bill Dodd, Democrat - Napa

This bill would have required specified concrete, warm-air heating, ventilating, and air-conditioning (HVAC), and tree servicer licensees, regardless of if the licensee has employees, to have a valid Certificate of Workers' Compensation Insurance or Certification of Self-Insurance. It also would have authorized the Contractors' State License Board (CLSB) registrar to remove a concrete, HVAC, or tree servicer classification from an active license until receipt of a valid Certificate of Workers' Compensation Insurance or Certification of Self-Insurance, and to automatically suspend specified active licenses if a licensee is found to have employees and is lacking a valid Certificate of Workers' Compensation Insurance or Certification of Self-Insurance.

Result: Ordered to the inactive file. May be taken up in January 2022.

SB 335 - Workers' compensation: liability.

Dave Cortese, Democrat - San Jose

This bill would have made several changes to the workers' compensation system in the public and private sectors, including lowering the time period for an employer to reject liability for an injury from 90 days to 45 days, and requiring presumptive injuries to be considered compensable if not rejected within 30 days. It also would have increased the amount of medical treatment that an employer must immediately

authorize for an alleged injury from \$10,000 to \$17,000, and required the full amount of the order, decision, or award to be increased by 10% if payment of compensation has been unreasonably delayed or refused for a presumptive injury.

Result: Stalled in the Assembly Insurance Committee and is a 2-year bill.

SB 788 - Workers' compensation: risk factors.

Steven Bradford, Democrat - Gardena

This bill prohibits the consideration of race, religious creed, color, national origin, gender, marital status, sex, sexual identity, or sexual orientation in the development of an apportionment declaration.

Final Votes

Assembly: 77-0

Senate: 37-0

Result: Passed by the Legislature and vetoed by the Governor. Veto message found in Appendix C.

APPENDICES

Veto message for:
AB 123 (Gonzalez)
Vetoed on September 28, 2021

To the Members of the California State Assembly:

I am returning Assembly Bill 123 without my signature.

This bill revises formulas for determining benefits under the State Disability Insurance (SDI) program, which includes Disability Insurance (DI) and Paid Family Leave (PFL) programs, beginning January 1, 2023.

My Administration has been a strong advocate for expanding access to DI and PFL programs, and I am proud of the progress we have made in collaboration with the Legislature. In 2019, I signed SB 83 (Chapter 24) which extended the maximum duration of paid family leave benefits from 6 to 8 weeks and AB 406 (Chapter 386) which required PFL applications to be provided in multiple languages. Last year, I signed SB 1383 (Chapter 86) which provided job-protected leave to employees working for employers with five or more employees. This year, I signed AB 138 (Chapter 78) which extended increased wage replacement rates to 2023.

This bill would create significant new costs not included in the 2021 Budget Act and would result in higher disability contributions paid by employees. I look forward to continued partnership with the Legislature to ensure that workers have true access to programs providing family leave.

Sincerely,

Gavin Newsom

Veto message for:
AB 1074 (Gonzalez)
Vetoed on September 28, 2021

To the Members of the California State Assembly:

I am returning Assembly Bill 1074 without my signature.

This bill would require successor employers in the hotel industry who purchased the business or property to retain workers who provided "guest services" for a 60-day transition period and offer them employment if their performance is satisfactory.

I support efforts to ensure stability in employment for all workers, especially given the uncertainty caused by the pandemic. Earlier this year, I signed SB 93 (Chapter 16) which included strong recall and retention protections for hotel workers who lost their job because of the pandemic and applies to existing and successor employers. There is significant overlap between this bill and SB 93, which may cause confusion for the regulated community. I encourage the Legislature to revisit the issue when the protections of SB 93 are due to expire.

Sincerely,

Gavin Newsom

Veto message for:
SB 788 (Bradford)
Vetoed on September 28, 2021

To The Members of the California State Senate:

I am returning Senate Bill 788 without my signature.

This bill would preclude a physician from using certain characteristics as the basis for apportionment of permanent disability.

Current law states that physicians shall not apportion the percentage of permanent disability awarded based on the gender, race, or other personal characteristic of the employee and provides protection from the inappropriate application of apportionment law. Instead, physicians are required to apportion the disability award based solely upon the employee's own medical history and medical evidence.

While I support efforts to combat bias within the medical profession, this bill creates confusion with well-settled law, which is likely to result in increased litigation and subsequent delays to much-needed benefits to workers. Ongoing efforts by the Division of Workers' Compensation to implement mandatory continuing education of medical-legal evaluators related to current anti-bias laws and apportionment training is better suited to achieve the intent of this bill.

Sincerely,

Gavin Newsom