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State Senate

State Assembly

**Department of
Insurance**

Net Neutrality Bill Advances

SB 822 (Wiener), a proposal that would restore net neutrality in California, advanced in the Senate Energy, Utilities & Commerce Committee this past Tuesday with some changes that scaled back some of its provisions.

Federal net neutrality rules, established under then-President Obama in February 2015, barred companies such as AT&T, Charter and Verizon from selling faster delivery of some data and slowing speeds for certain video streams and other content. However, the Federal Communications Commission voted in December to roll back those rules, with Republicans calling for an end to the utility-like oversight of internet providers. This resulted in states across the country to try and implement their own net neutrality rules.

Senator Scott Wiener (D-San Francisco), who introduced the proposal, conceded that the latest version maintains its key objective, ensuring fair access to the internet and preventing providers from choosing winners and losers based on how much they pay for services.

Under the version of the legislation that passed in committee, the Attorney General's office would be tasked with monitoring or enforcing net neutrality rules, rather than the Public Utilities Commission. In addition, under the amendments, companies would not have to adhere to net neutrality rules as part of cable franchise agreements or as a condition for obtaining state contracts to install broadband across the state.

Lobbyists for industry groups and major internet providers appreciated the amendments removing the power from the PUC but contend the proposal is still complex, confusing and could cause companies to pass on more costs to consumers.

SB 822 is one of two bills currently in the Legislature addressing net neutrality. A bill by Senator Kevin de León (D-Los Angeles), SB 460, takes a narrower approach and would task the California Public Utilities Commission with establishing new net neutrality rules.

As amended, SB 822 passed the Senate Energy, Utilities & Commerce Committee with a vote of 8-3.

Assembly Insurance Committee Hearing

Secretary of State
Official Legislative
Information

The Assembly Insurance Committee met this past Wednesday to hear and act on the following measures. This marked the first hearing for several of the bills introduced as a result of the devastating fires in California last fall.

AB 1772 (Aguilar-Curry D) Fire Insurance Indemnity

Summary: Current law defines the measure of indemnity for a loss under an open fire insurance policy and specifies time limits under which an insured must collect the full replacement cost of the loss. In the event of a loss relating to a state of emergency existing law establishes a minimum time limit of not less than 24 months from the date that the first payment toward the actual cash value is made during which the insured may collect the full replacement cost of the loss, subject to the policy limit. This bill extends the minimum time limit during which an insured may collect the full replacement cost of a loss relating to a state of emergency to 36 months.

This bill is sponsored by the California Department of Insurance and supported by various consumer groups. It has no registered opposition.

This bill passed the committee with a unanimous vote.

AB 1799 (Levine D) Insurance Policy Document Furnishing

Summary: This bill specifies that a copy of an insurance policy be provided in full within 30 calendar days of receiving a request from the insured, including any endorsements, and the declarations page, and authorizes the insurer to provide these documents in electronic form if agreed to by the insured.

This bill is supported by the California Department of Insurance and supported by various consumer groups and local governments in areas affected by the fires.

This bill passed the committee with a unanimous vote.

AB 1800 (Levine D) Fire Insurance Extended Replacement Cost Coverage

Summary: Current law prohibits a fire insurance policy from limiting or denying payment of the replacement cost of property in the event the insured decides to rebuild or replace the property at a location other than the insured premises. This bill qualifies that prohibition by making it applicable in addition to any extended replacement cost coverage purchased by the insured and in addition to any increase in policy limits.

This bill is supported by the California Department of Insurance and supported by various consumer groups and local governments in areas affected by the fires.

This bill passed the committee with a unanimous vote.

AB 1923 (Limon D) Wildfire Debris Removal

Summary: Requires insurers participate in local government post-fire debris removal.

This bill is sponsored by the California Department of Insurance. Several of the committee members had issues and concerns with the measure as drafted. Going into the hearing, the author and sponsor were resistant to accepting the amendments. However, when it became apparent that the bill would not have the necessary votes for passage, the author and sponsor agreed to accept the committee amendments. These amendments eliminated retroactive language and required public entities to bill insurers within 6 months of project completion.

As amended, AB 1923 passed the committee with a vote of 13-0.

AB 2142 (Bigelow R) Homeowner Insurance Financial Condition

Summary: Prohibits the Insurance Commissioner from conducting a financial examination of a home protection company if the company's most recent annual statement of financial condition shows the company maintains more than twice the reserves or net worth required by law and if the company president and treasurer provide, upon prior written request, an affidavit under penalty of perjury attesting to the company's reserves and accounts, or net worth. The bill provides that the accounts, or net worth, are subject to verification by the Department of Insurance.

This bill is sponsored by the National Home Service Contract Association. There is no registered opposition.

AB 2141 passed the committee with a unanimous vote.

AB 2229 (Wood D) Fire Insurance Standard Form

Summary: This bill requires the standard form of fire insurance policy to include the features of the property being insured that contribute to increased or decreased risk as compared to similar properties in the region, and to the extent possible, the policy to inform the insured how these risk factors are affecting the costs of the insured's insurance policy.

This bill has no registered support or opposition.

AB 2229 passed the committee with a unanimous vote.

AB 2276 (Burke D) Auto Body Rate Surveys

Summary: This bill adopts a statutory methodology that complements existing Department of Insurance (DOI) regulations for insurers to use in surveying auto body repair shops to determine the prevailing auto body repair labor rate in a particular geographic area.

This bill is sponsored by the insurance industry and opposed by the auto body industry and consumer groups. This bill is an extension of AB 1679 from last year, which was ultimately held. The insurance industry has trimmed the bill down substantially in an effort to remove opposition and move the bill along the process.

AB 2276 passed the committee with a unanimous vote.

AB 2395 (Calderon D) California Life & Health Insurance Guarantee Association

Summary: This bill would increase the surveillance of potentially insolvent long-term care insurers and expands the California Life Health Insurance Guarantee Association's (CLHIGA) authority to manage the liquidation of insolvent insurers. Specifically, the bill would permit CLHIGA to request actuarially justified rate increases for covered policies, require long-term care insurers with more than 10,000 long-term care insurance policies in force to annually report additional financial information to the Department of Insurance (DOI) and requires CLHIGA to submit an annual report to the Legislature regarding its capacity to absorb the claims of insolvent insurers.

This bill is sponsored by the Association of California Life and Health Insurance Companies and Guardian Life Insurance Company of America. There is no registered opposition.

AB 2395 passed the committee with a unanimous vote.

AB 2594 (Friedman D) Fire Insurance Lawsuits

Summary: Current law prescribes the standard form for a fire insurance policy or county fire insurance policy. Current law imposes a 12-month statute of limitations in which to bring suit under a fire insurance policy or a county fire insurance policy after a loss. Current law makes it a misdemeanor for an insurer or agent to countersign or issue a fire policy that varies from the California standard form of policy. This bill revises the standard forms of policy and extends the period in which to bring suit to 24 months after the inception of the loss if the loss is related to a state of emergency.

This bill is supported by the Consumer Attorneys of California, Consumer Federation of California (CFC) and Rural County Representatives of California (RCRC). There is no registered opposition.

AB 2594 passed the committee with a unanimous vote.

AB 2611 (Oberholte R) Residential Property Insurance Appeal

Summary: Current law limits the basis under which an insurer may cancel or fail to renew policies of insurance relating to loss of, or damage to, real property that is used predominantly for residential purposes. This bill establishes an appeal process for an insured or applicant for insurance who disagrees with a determination made by an insurer using a wildfire risk model. The bill requires an insurer to provide notice to the insured or applicant giving the specific reasons for the decision if an appeal results in an adverse underwriting decision, and requires the notice to include the contact information of the unit within the Department of Insurance that performs review of those decisions.

This bill is sponsored by the California Department of Insurance and opposed by the insurance industry.

Due to the strong opposition and unlikely chances of passage, the author pulled this bill from the hearing agenda last minute.

AB 2927 (Nazarian D) California Earthquake Authority Insurer Assessment

Summary: This bill would clarify existing law permitting the California Earthquake Authority (CEA) to sell post-event bonds to pay claims.

This bill is sponsored by the California Earthquake Authority. There is no registered opposition.

AB 2927 passed the committee with a unanimous vote.

AB 3180 (Frazier D) Insurance Misrepresentations

Summary: Current law prohibits an insurer or his or her agent from issuing, circulating, or using a statement that is known, or should have been known, to be a misrepresentation of the terms of a policy issued by the insurer or sought to be negotiated by the person making or permitting the misrepresentation. Current law also prohibits a person from making a statement that is known, or should have been known, to be a misrepresentation to another person for the purpose of inducing that other person to take out a policy of insurance or to induce that other person to lapse, forfeit, or surrender his or her insurance. Current law provides that a violation of these provisions is punishable by a fine or imprisonment in a county jail for a period of up to one year, or by both that fine and imprisonment. This bill increases the \$25,000 fine limit to \$30,000.

The author pulled this bill from the hearing agenda.

Assembly Labor Committee Hears Extensive Agenda

With over 50+ bills just on sexual harassment this year, the Labor committees have extremely full agendas! This past Wednesday's hearing went until 7:30 pm, as many of the bills are controversial and had extensive debate. The following is a list of the bills heard this past week and their outcomes:

AB 1867 (Reyes D) Sexual Harassment Recordkeeping

Summary: Requires an employer with 50 or more employees to maintain records of employee complaints of sexual harassment for 10 years from the date of filing. The bill allows the state to seek an order requiring an employer that violates the recordkeeping requirement to comply.

This bill is supported by labor and the consumer attorneys and opposed by the Chamber and a large coalition of business groups.

This bill passed Assembly Labor and Employment Committee 6-0.

AB 1870 (Reyes D) Employment Discrimination Complaint Filing Extension

Summary: Current law, the California Fair Employment and Housing Act, makes discrimination against or harassment of employees unlawful. Current law authorizes a person claiming to be aggrieved by an alleged unlawful practice to file a complaint with the Department of Fair Employment and Housing within 1 year from the date upon which the

unlawful practice occurred. This bill extends the period to 3 years for which complaints alleging unlawful employment or housing practices may be filed with the department.

This bill is supported by labor and the consumer attorneys, among others. The Chamber and a large coalition of business groups are oppose unless amended. The Chamber is currently drafting amendments to change the statute of limitations to 2 years.

AB 1870 passed Assembly Labor and Employment Committee 6-0.

AB 1902 (Levine D) Employer Personal Services Contracts

Summary: Requires the Department of Industrial Relations to, by January 1, 2020, and annually thereafter, develop a list of eligible employers that the Department determines are valued at least \$1 billion. The bill requires an eligible employer that enters into a personal services contract, on or after January 1, 2020, to include a provision in that contract that requires the employees that will perform the services in that contract to be paid a wage that is equal to an unspecified amount.

This bill is an author sponsored measure with no registered support. A coalition of business groups, led by the CalChamber, are in opposition.

AB 1902 passed the committee with a vote of 5-2.

AB 2016 (Fong R) Employee Civil Action Noticing

Summary: The Labor Code Private Attorneys General Act authorizes an aggrieved employee who complies with notice and filing requirements to bring a civil action to recover civil penalties that would otherwise be assessed and collected by the Labor and Workforce Development Agency. The Act requires that the aggrieved employee give written notice to the Agency and the employer of the specific provisions of the Labor Code alleged to have been violated, including the facts and theories to support the alleged violation. This bill instead requires the notice to include a statement setting forth the relevant facts, legal contentions, and authorities supporting each alleged violation and an estimate of the number of current and former employees against whom the alleged violation or violations were committed and on whose behalf relief is sought.

This bill is one of several attempting to address the egregious PAGA lawsuits. However, due to strong opposition by labor, consumer groups and consumer attorneys, AB 2016 was withdrawn from committee consideration by author.

AB 2314 (Ting D) Domestic Worker Private Employment

Summary: Requires the Division of Labor Standards Enforcement to establish and maintain a Domestic Work Enforcement Pilot Program in collaboration with qualified organizations. The bill requires the program to increase the capacity and expertise of the Division to improve education and enforcement of labor standards in the domestic work industry. Among other things, the program is required to address the education of employees and employers regarding minimum wage, overtime, sick leave, recordkeeping, retaliation, wage adjudication, as well as the creation of enforcement positions that ensure education regarding, and compliance with, laws governing the domestic work industry.

AB 2314 passed the committee with a vote of 6-0.

AB 2334 (Thurmond D) Occupational Injury Reporting

Summary: This bill requires employers to file specified injury and illness forms electronically with the Division of Occupational Safety and Health.

This bill is sponsored by the California Professional Firefighters. CalChamber and others are opposed.

AB 2334 passed the committee with a vote of 5-1.

AB 2420 (Quirk-Silva D) Workforce Soft Skills Training

Summary: Current law requires the Employment Training Panel to solicit proposals and write contracts for the purpose of providing employment training and requires these contracts to be made for training in job-related vocational skills that are necessary for participants to attain a new job or retain an existing job. Current law authorizes the contracts to include ancillary training for job-related basic and literacy training if the panel finds that the training is necessary to achieve the objectives of the vocational training. This bill instead authorizes those contracts to include ancillary training for job related soft-skills training and defines “soft-skills” as behaviors and competencies to allow people to navigate professional environments, work well with colleagues, and perform up to standards for professional success.

This bill has no registered support or opposition and passed the committee with a vote of 7-0.

AB 2484 (Voepel R) Time Off Compensation Exceptions

Summary: Current law authorizes an employee to receive compensating time off in lieu of overtime pay under specified conditions, including that the compensating time off is provided based on a collective bargaining agreement. Current law exempts from this authorization employees who are subject to wage orders of the Industrial Welfare Commission, including those applicable to manufacturing industry employees. This bill deletes the exception to receiving compensating time off that is applicable to employees who are subject to specified wage orders.

This bill failed passage with a vote of 2-5. Reconsideration was granted; however, more than likely, the bill is dead for the year.

AB 2613 (Reyes D) Semimonthly Payment Failure Penalties

Summary: Current law requires that employers pay wages to their employees, twice per calendar month, on days designated in advance as regular paydays. However, employees defined as executive, administrative, or professional may be paid once per month. Existing law makes a violation of these provisions a misdemeanor and subject to civil penalties recovered by the Labor Commissioner. This bill additionally impose penalties, payable to the

affected employees, on employers who violate these provisions (\$100 per violation with escalation for subsequent events.)

This bill is co-sponsored by the California Employment Lawyers Association (CELA) and Legal Aid at Work and the Center for Workers' Rights. A large coalition of business, led by the CalChamber are in opposition to the bill. Due to the recent substantive amendments, the bill was just placed on the "Job Killer" list.

AB 2613 passed the committee with a vote of 5-2.

AB 2827 (Allen, Travis R) Employer Immigration Enforcement

Summary: Authorizes an employer to provide voluntary consent to an immigration enforcement agent to enter any nonpublic areas of a place of labor, in the absence of a federal law requirement. The bill deletes the penalties for a violation of entry and record access provisions, and requires a court to grant a prevailing defendant court costs and reasonable attorney's fees.

This bill has no support and is opposed by labor.

AB 2827 was held in the committee without a vote.

AB 2907 (Flora R) Employer Wage Statement Error Cure

Summary: Existing law requires an employer, at the time of payment of wages, to provide his or her employees with itemized wage statements. Existing law authorizes an employer to cure a violation of certain requirements regarding itemized wage statements brought under these provisions, within a 33-day period after being notified of the violation, by providing a fully compliant itemized wage statement to each aggrieved employee. This bill authorizes an employer to cure an itemized wage statement under these provisions in a to-be-determined manner.

This bill was supported by the CalChamber and a large number of business interests who argued this bill would provide a reasonable opportunity to cure specific Labor Code violations before being subject to costly and frivolous litigation under the Labor Code Private Attorneys General Act (PAGA). Labor and consumer attorneys were strongly opposed.

AB 2907 failed passage in the committee with a vote of 2-5. The author has decided not to pursue this measure further this year.

AB 3080 (Gonzalez Fletcher D) Employment Discrimination Enforcement

Summary: Prohibits an employer from, as a condition of employment or as a condition of entering into a contractual agreement, prohibiting an employee or independent contractor from disclosing to any person an instance of sexual harassment that the employee or independent contractor suffers, witnesses, or discovers in the workplace or in the performance of the contract.

This bill enjoys the support of the ACLU and numerous labor organizations. The bill is opposed by the CalChamber labor coalition.

AB 3080 passed the committee with a vote of 5-2.

AB 3081 (Gonzalez Fletcher D) Workplace Sexual Harassment

Summary: Prohibits an employer from discharging or in any manner discriminating or retaliating against an employee because of the employee's status as a victim of sexual harassment. The bill establishes a rebuttable presumption of unlawful retaliation if an employer takes specific actions within 90 days following the date an employee files a sexual harassment claim. The bill authorizes an employee to file a complaint with the Division of Labor Standards Enforcement for a violation of that prohibition within 3 years from the date of occurrence of the violation.

This bill is supported by numerous labor organizations. The bill is opposed by the CalChamber labor coalition.

AB 3081 passed the committee with a vote of 5-1.

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