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California Legislature: Schedule Up to Summer Recess

Last Friday was the legislative deadline to introduce bills. The following is the legislative schedule established in Assembly and Senate Rules, up to the summer recess.

March 22 – Spring Recess begins upon adjournment of this day's session

April 2 – Legislature reconvenes from Spring Recess

April 27 – Last day for policy committees to hear and report to fiscal committees fiscal bills introduced in their house

May 11 – Last day for policy committees to hear and report to the floor nonfiscal bills introduced in their house

May 18 – Last day for policy committees to meet prior to June 4

May 25 – Last day for fiscal committees to hear and report to the floor bills introduced in their house. Last day for fiscal committees to meet prior to June 4

May 29-June 1 – Floor session only. No committees, other than conference or Rules committees, may meet for any purpose

June 1 – Last day for each house to pass bills introduced in that house

June 4 – Committee meetings may resume

June 15 – Budget Bill must be passed by midnight

June 28 – Last day for a legislative measure to qualify for the November 6 General Election ballot

June 29 – Last day for policy committees to hear and report fiscal bills to fiscal committees

**Department of
Insurance**

Secretary of State

**Official Legislative
Information**

July 6 – Last day for policy committees to meet and report bills. Summer Recess begins upon adjournment provided Budget Bill has been passed

Fire Insurance Legislation Primer: Updated

All told, now that the legislative deadline to introduce bills has passed for this session, there are 21 fire insurance related bills, many of which were brought to authors' attention by the Insurance Commissioner. Most of the legislators carrying these measures represent districts impacted by the Bay Area firestorm, but there are also legislative authors from the southern California Thomas Fire areas.

[AB 1740](#) (Daly, Dem-Anaheim) Fire Insurance Loss Valuation

Current Status: Referred to Assembly Insurance Committee

Current law provides that under an open policy that requires payment of actual cash value, the measure of the actual cash value recovery is, in the case of a total loss to the structure, the policy limit or the fair market value of the structure, whichever is less, and in the case of a partial loss to the structure or loss to its contents, the amount it would cost the insured to repair, rebuild, or replace what was lost or injured less a fair and reasonable deduction for physical depreciation based upon its condition at the time of the injury or the policy limit, whichever is less.

This bill deletes the provisions regarding the actual cash value of the claim of total loss to the structure and instead requires that the actual cash value of the claim, for either a total or partial loss to the structure or its contents, be the amount it would cost the insured to repair, rebuild, or replace what was lost or injured less a fair and reasonable deduction for physical depreciation.

[AB 1772](#) (Aguilar-Curry, Dem-Winters) Fire Insurance Indemnity

Current Status: Referred to Assembly Insurance Committee

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.

[AB 1797 \(Levine, Dem-Marín County\) Residential Property Insurance](#)

Current Status: Referred to Assembly Insurance Committee

AB 1797 requires an insurer to provide an estimate of replacement value for the insured property for every policy of residential property insurance that is newly issued or renewed in this state on and after January 1, 2019, and imposes liability on an insured that fails to do so in the amount of the actual cost to replace the insured property, minus the amount of the policy coverage. AB 1797 creates a requirement that insurers writing residential property insurance to conduct a replacement cost estimate when they write new policies and during the annual renewal process.

[AB 1799 \(Levine, Dem-Marín County\) Insurance Policy Documents](#)

Current Status: Referred to Assembly Insurance Committee

Current law requires an insurer, after a covered loss under a fire insurance policy, to provide the insured with a free copy of his or her policy within 30 calendar days of receiving a request from the insured, but allows the Insurance Commissioner to extend this period. Current law also provides that an insured who does not experience a covered loss to, upon request, be entitled to one free copy of his or her policy annually. This bill specifies that the copy of the policy provided include the full policy, any endorsements to the policy, and the policy declarations page, and authorize the insurer to provide these documents in electronic form if agreed to by the insured.

[AB 1800 \(Levine, Dem-Marín County\) Fire Insurance Indemnity](#)

Current Status: Referred to Assembly Insurance Committee

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. Current law also prohibits a fire insurance policy issued or delivered in the state 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. AB 1800 clarifies that the coverage limits, including the amounts for Extended Replacement Cost and Building Code Upgrade coverage, are available to those who rebuild or purchase an already built home at a new location.

[AB 1875 \(Wood, Dem-Healdsburg\) Residential Fire Insurance](#)

Current Status: Referred to Assembly Insurance Committee

This measure requires insurers offer replacement cost for all coverages of 50%, and requires an insurer to offer extended replacement cost coverage of no less than 50% for Coverage A, B, C and D, when issuing or renewing a policy of residential property insurance and requires the insurer to disclose the premium costs for extended replacement cost coverage.

[AB 1919 \(Wood, Dem-Healdsburg\) Declared Disaster Rent Limit Increase](#)

Current Status: Referred to Assembly Public Safety Committee

This bill, upon the proclamation or declaration of an emergency, make it a misdemeanor for a person, business, or other entity to increase the monthly rental price advertised, offered, or charged for residential housing to an existing or prospective tenant by more than 10% greater than the rental price advertised, offered, or charged by that person, business, or entity within 30 days immediately prior to the date of the proclamation or disaster. The bill extends the prohibition with regard to housing for any period that the declaration is extended. It additionally makes it a misdemeanor for a person, business, or entity to evict a housing tenant after the proclamation of a state of emergency for the purpose of renting the housing out.

[AB 1923 \(Limón, Dem-Santa Barbara\) Post-Disaster Debris Removal Program](#)

Current Status: Pending committee referral. May be heard February 24.

This bill requires insurers to participate in a local debris removal program, if a policyholder consents to the program; and, the policyholder assigns benefits for debris removal to the county or agency. The amount is limited to the amount of unused benefit. It does not require insurers to pay any more than a reasonable amount for debris removal services. The bill is retroactive to July 1 2017.

[AB 1956 \(Limón, Dem-Santa Barbara\) Fire Prevention Activities](#)

Current Status: Referred to Assembly Natural Resources Committee

Existing law also requires the State Board of Forestry and Fire Protection to establish a local assistance grant program using funds collected from a fire prevention fee for purposes of fire prevention activities designed to benefit habitable structures within state responsibility areas. This bill requires the Department, on or before July 1, 2019, to establish a local assistance grant program, funded upon appropriation by the Legislature, for fire prevention activities. The bill requires the Department to prioritize projects that are multiyear efforts to improve resiliency on the landscape and adapt to increased frequency and intensity of large wildfires.

[AB 2229 \(Wood, Dem-Healdsburg\) Fire Insurance Standard Form](#)

Current Status: Pending committee referral. May be heard March 6.

Current law requires certain fire policies to be executed using the standard form of fire insurance policy that contains required and optional provisions. Under existing law, it is a misdemeanor to issue a fire policy that varies from the standard form. 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 further requires, to the extent possible, the policy to inform the insured how these risk factors are affecting the costs of the insured's insurance policy.

[AB 2551 \(Wood, Dem-Healdsburg\) Forest & Wildland Health Improvement & Fire Prevention Program](#)

Current Status: Pending committee referral. May be heard March 18.

This bill requires the Department of Forestry and Fire Prevention to establish, implement, and administer the Forest and Wildland Health Improvement and Fire Prevention Program, which is intended to promote forest and wildland health, restoration, and resilience, and improve fire prevention and preparedness throughout the state. This measure also requires the Department to take actions to improve forest and wildland health and resilience, including evaluating and proposing changes to statewide fire suppression goals and developing fire preparedness and suppression training programs.

[AB 2911 \(Friedman, Dem-Los Angeles\) Structure Fire Risk Reduction](#)

Current Status: Not yet referred to committee. May be heard March 18.

Requires the State Fire Marshal, no later than January 31, 2019, in consultation with the Director of Forestry and Fire Protection and the Director of Housing and Community Development, to recommend updated building standards that provide for comprehensive site and structure fire risk reduction to protect structures from fires spreading, based on lessons learned from the wildfires of 2017 and to develop a list of low-cost retrofits that provide for comprehensive site and structure fire risk reduction.

[AB 3166 \(Burke, Dem-Inglewood\) Residential Property Insurance Nonrenewal](#)

Current Status: Not yet referred to committee. May be heard March 19.

Current law creates the Fair Access to Insurance Requirements or FAIR Plan Association to formulate and administer a program that equitably apportions among insurers, basic plans of insurance for property owners who, after diligent effort, are unable to procure such insurance through normal channels from an admitted insurer or a surplus line broker. Current law requires a broker or agent to provide assistance to a person seeking help in

obtaining coverage. This bill requires insurers who fail to renew or offer renewal of a policy of residential property insurance to make certain notifications to a policyholder regarding other options he or she may have, including information about the FAIR plan.

[SB 824](#) (Lara, Dem-Bell Gardens) Post-Fire Homeowners Insurance Nonrenewal

Current Status: Referred to Senate Insurance, Banking & Financial Institutions Committee

This legislation prevents insurance companies from dropping or nonrenewing customers following a wildfire disaster. Second, it requires insurance companies to offer mitigation discounts and continued coverage to homeowners who make investments in wildfire mitigation safety, including fire-resistant roofing and other materials. Third, it requires approval by the Department of Insurance before insurance companies reduce the volume of policies in high-risk fire areas.

[SB 894](#) (Dodd, Dem-Fairfield) Property Insurance Nonrenewals

Current Status: Referred to Senate Insurance, Banking & Financial Institutions Committee

In event of disaster, the bill increases renewal from 12 months to two renewals, or 24 months, whichever is greater. Also, insurers would have to offer / write new business during that period. If a carrier nonrenews after the above period, this must be reported to the Insurance Commissioner. If within five years of a disaster an insurer decides it will not renew in a declared disaster area, it must report according to the Department of Insurance. It permits combining policy limits (A, B, C, D) in the event of disaster to apply to any loss.

[SB 897](#) (McGuire, Dem-Healdsburg) Fire Insurance Additional Living Expense

Current Status: Referred to Senate Insurance, Banking & Financial Institutions Committee

This measure states that for additional living expenses (ALE), insurers are required to provide a list "in writing" of items believed covered. It may use the Department of Insurance list to comply. In lieu of collecting ALE, insureds may collect fair rental value for the damaged property. Advanced payments for ALE are a minimum of four months. In event of total loss, advance payment of no less than 25% of the policy limit for contents without inventory is required. Insurers are required to accept groupings. In event of total loss upon request of insured, insurers must settle for no less than 80% of policy limit for contents in lieu of requiring the insured to file an itemized claim. The measure releases insurers from future liability. Finally, it includes a 30 day grace period for payment of premiums if there is a declared emergency.

[SB 901](#) (Dodd, Dem-Fairfield) Electric Utility Wildfire Mitigation Plans

Current Status: Referred to Senate Energy, Utilities & Communications Committee

Requires a wildfire mitigation plan prepared by an electrical corporation, and wildfire mitigation measures prepared by a local publicly owned electric utility or electrical cooperative, to include policies and procedures by which the preparing entity may assess when it may be necessary to deenergize its electrical lines and, if so, which electrical lines should be deenergized. The bill also requires those policies and procedures to include relevant meteorological conditions, maps of relevant fire hazard severity zones and high fire risk areas, observations made by individuals and cameras of vegetation conditions near electrical lines, and communication protocols for notifying customers who may be impacted by the deenergizing of electrical lines.

[SB 917](#) (Jackson, Dem-Santa Barbara) Landslide Insurance

Current Status: Referred to Senate Insurance, Banking & Financial Institutions Committee

This legislation provides that insurance policies that do not cover the peril of landslide to exclude coverage for any loss or damage attributable to a landslide if the landslide resulting in loss or damage was proximately caused by another covered peril. It defines landslide to include both mudflows and mudslides. According to the author, homeowners in rural and urban areas have reported losing insurance as a result of exposure to wildfires.

[SB 1044](#) (Berryhill, Rep-Modesto) State Responsibility Area Fire Prevention Fees

Current Status: Not yet referred to committee. May be heard March 11.

Current law until July 1, 2017, required that a fire prevention fee be charged on each habitable structure on a parcel that is within a state responsibility area, to be used for specified fire prevention activities, and prescribed procedures for the collection and processing of the fees by the Department of Tax and Fee Administration. Existing law repeals those provisions requiring the payment of the fee on January 1, 2031. This bill instead repeals those provisions on January 1, 2019.

[SB 1263](#) (Portantino, Dem-Burbank) Residential Property Insurance

Current Status: Not yet referred to committee. May be heard March 18.

This measure requires an insurer to increase the policy limits of a residential property insurance policy by an amount equal to 50% of the policy limits if an insured has suffered a loss relating to a declared state of emergency. The bill specifies that the 50% increase is in addition to applicable guaranteed replacement cost coverage.

[SB 1444](#) (Stone, Rep-Temecula) Interagency Fire Fighting Coordination

Current Status: Not yet referred to committee. May be heard March 18.

Current law finds and declares that wildfires are extremely costly to property owners and residents as well as to local agencies and that since fires ignore civil boundaries, it is necessary that cities, counties, special districts, state agencies, and federal agencies work together to bring raging fires under control. This bill would make nonsubstantive changes to this finding and declaration.

Workers Compensation Legislative Agenda Unclear; No News Maybe Good News

Norwood Associates and its retained workers' compensation expert legal counsel concurs that many substantive workers' compensation issues addressing any potential major issues will be conducted in the confines of private negotiations. Potential major legislation is inclined to occur after the summer recess, if then. A review of the introductions to date suggests that workers' compensation issues are not a high priority in Sacramento in 2018. There are a host of bills that address other aspects of the employer-employee relationship that will undoubtedly gain much attention in the coming months.

While there are a few curious spot bills touching on provisions of the Insurance Code relating to workers' compensation insurance, the overwhelming focus of the Legislature as it relates to insurance is addressing the many issues arising from the devastating fires of 2017 and their impact on California homeowners. Given this is an election year, and all the many other issues facing the Legislature in 2018, perhaps the final year of Governor Jerry Brown's tenure in office is a modest one for workers' compensation legislation. The next Governor, however, may find a rather full plate of issues shortly after taking the oath of office.

While a two-year bill, a piece of legislation that should be watched closely is [SB 617](#) (Bradford, Dem-Inglewood), a 2017 introduction that is now pending in the Assembly. This bill deals with apportionment or, more accurately, the response from the Legislature to the Court of Appeal decision in *City of Jackson v. Workers Compensation Appeals Board* (Rice) (2017) 11 Cal.App. 5th 109. Whether the Legislature passes and Governor Jerry Brown signs a bill articulating the policy of this state regarding apportionment to conditions to which an injured worker's injury is in part due to genetic factors is an issue for 2018. Whether the Legislature is willing to have a candid discussion with stakeholders as to how advances in genomic research and workplace technology are creating data that gives employers a far clearer understanding of the longterm health profile of employees is quite another. This is not just a question of genetics, it is also a question of ethics and privacy. Before a prophylactic response from Sacramento is applied to this issue, there needs to be a broader understanding of how rapidly advancing technology impacts the workplace.

Additionally, next Wednesday, February 28, the Assembly Insurance Committee will hold an informational hearing on workers' compensation fraud. This will likely include a review of a State Auditor report as well as testimony from Department of Industrial Relations Director Christine Baker. Among its recommendations, the report calls for public reporting of fraud efforts by insurers. Per the Audit: "We believe a comparable (to Texas) public report that rates insurers' antifraud efforts could motivate insurers with minimal compliance to improve and could also better inform consumers about insurers' fraud fighting efforts – or lack thereof."

Apparently, fraud is not a problem for self-insureds given the lack of a recommendation for similar reporting by third-party administrators of self-insured programs or by self-insured self-administered programs. The second area for potential friction emanating from the Auditor's report is whether explanations of benefits should be issued. This recommendation presupposes that a claimant for workers' compensation benefits will gladly and regularly report suspicious activity undertaken by his / her treating physician. It also presupposes that an injured worker will view it as a moral imperative to protect his / her employer from fraud. As frequently noted in other contexts, the Auditor's recommendation fails to consider the unique psycho-social dynamics of workers' compensation claims. Those claims most subject to abuse are also those which most likely point to a deteriorated relationship between the employer and injured worker prior to, or at least concurrent with, the claimed industrial injury.

As is the case with most of the Auditor's recommendations, Director Christine Baker was vocal in opposition to such a requirement – both from a cost and effectiveness standpoint: "The Auditor's recommendation to require insurers to send millions of explanation of benefits notices fails to advance the intended goal of preventing fraud, because it focuses solely on approved treatment, for which controls – such as utilization review, independent medical review, and independent bill review – are already in place." Director Baker's comments should be given great weight in this discussion.

Insurance Bills Across Several Lines Introduced

This list of bills introduced at deadline is intended to bring to your attention higher priority insurance bills.

[AB 2844](#) (Cooley, D-Rancho Cordova) Insurer Reserves

Current law creates the Department of Insurance and prescribes the Department's powers and duties. Current law also requires the Insurance Commissioner to require an insurer to maintain additional reserves for outstanding liability or compensation losses and loss expenses when the insurer's reserves seem inadequate to the Commissioner. This bill makes technical, nonsubstantive changes to that provision.

[AB 3025 \(Carrillo, D-Los Angeles\) Workers Compensation Advertisements](#)

Existing law establishes the workers' compensation system, administered by the Administrative Director of the Division of Workers Compensation, to compensate an employee for injuries sustained in the course of his or her employment. Existing law also requires the Administrative Director to promulgate regulations regarding advertisements relating to workers' compensation and requires this person to take particular care to preclude advertisements with respect to industrial injuries or illnesses that are false or that mislead the public with respect to workers' compensation. This is a spot measure.

[AB 3100 \(Flora, R-Modesto\) Off Duty Firefighter Workers Compensation](#)

Existing law establishes the workers' compensation system, administered by the Administrative Director of the Division of Workers Compensation, to compensate an employee for injuries sustained in the course of his or her employment. Existing law also requires, when a firefighter is injured, dies, or disabled from performing his or her duties as a firefighter by reason of his or her proceeding to or engaging in a fire-suppression or rescue operation, or the protection or preservation of life or property, anywhere in this state, but is not at the time acting under the immediate direction of his or her employer, the firefighter or his or her dependents to be accorded by his or her employer all of the same workers' compensation benefits that he, she, or they would have received had that firefighter been acting under the immediate direction of his or her employer. This is a spot bill.

[AB 3180 \(Frazier, D-Vacaville\) Insurance Misrepresentations](#)

Existing 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. Existing 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. The bill increases the \$25,000 fine limit to \$30,000 with respect to insurance misrepresentations.

[SB 1248 \(Gaines, R-El Dorado Hills\) Disability Insurance](#)

Existing law provides that family expense disability insurance is a form of disability insurance

that insures more than one person and is issued to the head of a family or his or her spouse indemnifying him or her, or the spouse, or both, against loss due to disability to persons dependent, and may include indemnification on account of his or her own disability and spouse whether or not either is dependent on the other. This bill makes technical, nonsubstantive changes to that provision.

[SB 1291](#) (Dodd D) Independent Insurance Adjusters Redefinition

This legislation revises statutory provisions to redefine an “independent insurance adjuster” to mean an individual, a business entity, an independent contractor, or an employee of a contractor who contracts for compensation with insurers, a person whose tax treatment by the insurers is consistent with that of an independent contractor rather than as an employee, and a person who investigates, negotiates, or settles property and casualty claims for insurers. The bill expands the categories of persons exempt from the state law to include an individual who is employed to investigate suspected fraudulent insurance claims, but who does not adjust losses or determine claims payments, and a person who solely performs administrative or clerical duties.

Many Labor Related Measures of Concern to Employers Introduced on Friday’s Legislative Deadline

Since the bill introduction deadline was last Friday, the California Chamber of Commerce Employment Coalition is now gearing up. However, positions and coalition opportunities are still in process. Next Thursday CalChamber positions will be development. But, following is a preview of anticipated Chamber oppose / oppose unless amend positions.

[AB 1867](#) (Reyes, D-San Bernardino): 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.

[AB 1938](#) (Burke, D-Inglewood): Current law prohibits an employer from making any nonjob-related inquiry, either verbally or on an application form, that expresses any limitation, specification, or limitation based upon a person’s race, religion, national origin, or gender. This bill, in addition, prohibits an employer from making a nonjob-related inquiry to, or expressing any limitation, specification, or limitation based upon a person’s familial status. Apparently, this is directed toward whether a person has children.

[AB 2587](#) (Levine, D-Marine): Current law authorizes an employer to require an employee to take up to 2 weeks of earned but unused vacation before, and as a condition of, the employee's initial receipt of these benefits during any 12-month period in which the employee is eligible for these benefits. This bill eliminates that authorization.

[AB 2613](#) (Reyes, D-San Bernardino): Current law requires 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 imposes penalties, payable to the affected employees, on employers who violate these provisions in the amount of \$100 per affected employee for initial violation, an additional \$100 for subsequent violation, among additional financial penalties.

[AB 2680](#) (Jones-Sawyer, D-Los Angeles): The Fair Employment and Housing Act, prohibits an employer to include on any application for employment any question that seeks the disclosure of an applicant's conviction history, to inquire into or consider the conviction history of an applicant until that applicant has received a conditional offer, and, when conducting a conviction history background check, to consider, distribute, or disseminate information related to specified prior arrests, diversions, and convictions. This bill, under those laws relating to contract and applications for employment, requires the Department of Justice to adopt a standard form for use by an employer, whether public or private, seeking the consent of an applicant for employment to conduct a conviction history background check on that applicant by the Department.

[AB 2841](#) (Gonzalez-Fletcher, D-San Diego): Changes the requirements of the employer's alternate sick leave accrual method to require no less than 40 hours of accrued sick leave or paid time off by the 200th calendar day of employment. This bill also provides that an employer is under no obligation to allow an employee's total accrual of paid sick leave to exceed 80 hours or 10 days. It raises the limitation on sick leave carried over to the following year of employment to 40 hours or 5 days (versus 3 days under existing law.)

[AB 2946](#) (Kalra, D-San Jose): Current law authorizes a person who believes he or she has been discharged or otherwise discriminated against in violation of any law under the jurisdiction of the Labor Commissioner to file a complaint with the Division of Labor Standards Enforcement within 6 months after the occurrence of the violation. This bill extends the period to file a complaint to within 3 years after the occurrence of the violation.

[SB 937](#) (Wiener, D-San Francisco): Requires a lactation room or location to include prescribed features and requires an employer to provide access to a sink and refrigerator in

close proximity to the employee's work space. The bill further establishes a procedure for an employer with fewer than 5 employees to apply to the Division of Labor Standards Enforcement for an undue hardship exemption from the lactation room or location requirement.

[SB 1284](#) (Jackson, D-Santa Barbara): Requires, on or before September 30, 2019, and on or before September 30 each year thereafter, an employer that is incorporated under the laws of the state that has 100 or more employees to submit a pay data report to the Department of Industrial Relation. This bill requires the Department to make the reports available to the Secretary of State, the Department of Fair Employment and Housing, and the Commission on the Status of Women and Girls upon request.

[SB 1298](#) (Skinner, D-Berkeley): Current law requires the Department of Justice to maintain state summary criminal history information and requires the Attorney General to furnish summary criminal history information to specified entities and individuals if needed in the course of their duties. This bill limits the information the Department provides to requesters to more recent misdemeanors and felonies, generally within 5 years, including offenses for which registration as a sex offender is required.

[SB 1300](#) (Jackson, D-Santa Barbara): Provides that a plaintiff in an action alleging that a defendant failed to take all reasonable steps necessary to prevent discrimination and harassment from occurring to prove that the plaintiff endured sexual harassment or discrimination. ALERT: This allows a third party to sue on behalf of an alleged sexually harassed individual; the person filing suit does not need to be the alleged sexually harassed. The Chamber considers this a litigation proliferation problem.

[SB 1343](#) (Mitchell, D-Los Angeles): Requires an employer who employs 5 or more employees to provide at least 2 hours of sexual harassment training to all employees by January 1, 2020, and once every 2 years after that. The bill also requires the Department of Fair Employment and Housing to develop a 2-hour video training course on the prevention of sexual harassment in the workplace and to post it on the Department's website.

The following is sponsored by the Chamber:

[AB 2770](#) (Irwin, D-Thousand Oaks): Current law makes certain publications and communications privileged and therefore protected from civil action, including communications concerning the job performance or qualifications of an applicant for employment that are made without malice by a current or former employer to a prospective

employer. This bill includes among those privileged communications complaints of sexual harassment by an employee to an employer based on credible evidence and communications by the employer to interested persons and witnesses regarding a complaint of sexual harassment during an investigation and authorizes an employer to answer whether or not a decision to not rehire a person is based on the employer's determination that the former employee engaged in sexual harassment.

Other items:

The Chamber has a Private Attorney Generals Act subgroup to address tort reform this year. This is run up to an effort to reform next year. There is no legislation that is expected to advance this year. But, in preparation the Chamber is seeking suggestions from employers, including language. An initiative filed with the Secretary of State was pulled at the request of labor, indicating willingness to negotiate. Labor wants forced arbitration rollback in exchange, which is a nonstarter to many Chamber members.

Another subgroup established is Opportunity to Work. There is no bill along these lines this year. The impetus for this subgroup is a Los Angeles ordinance on predictive scheduling (requires 14 day out work schedule noticing.) The Chamber needs language and data protecting employer flexibility to schedule, particularly for part time employees. Chamber Coalition members with manufacturing interests raised particular concern because meeting product demand sometimes means short notice to secure employee worktime. A San Jose ordinance requires predictive scheduling, but it is not being enforced at this time and most employers are not aware it exists.