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California Links

State Senate

State Assembly

California Earthquake Authority Considering New Assessment on Earthquake Policies; And, All Property & Casualty Policies

The California Earthquake Authority (CEA) is considering pursuing legislation, the California Natural Catastrophe Resiliency & Loss Mitigation Act, which includes a post-event assessment for CEA policyholders of 10% of premium – to generate \$430 million in capacity – to cut CEA reinsurance cost by \$13 million. CEA would create a set-aside reserve fund to buffer further out-year CEA-policyholder assessments.

It also would contain a post-event assessment for all California property and casualty policyholders, which would require new law. If CEA claims exhaust primary capacity layers (including CEA-policyholder assessments), CEA receives proceeds of (up to) 1.5% via assessment on all California P&C premiums. The assessment proceeds would be pledged to repay post-earthquake CEA debt incurred for CEA claims / costs. The assessment rate could rise slightly – by formula, over time – as statewide P&C exposure grows. CEA nets a rolling, ratable 10-year capacity availability.

The assessment rate would be further equalized by regional earthquake risk – indexed to CEA's (existing) risk-based rating territories. So, the assessment rate would be lower in lower risk-areas, higher in higher risk areas. Statewide, the assessment rate averages 1%, up to 1.5% over time of aggregate P&C premium.

The debt supported by assessments means \$4.7 billion of new CEA capacity, reducing CEA risk-transfer by \$140 million/year. The CEA Governing Board would allocate this sum to CEA available capital and a reserve fund, to provide buffer before further assessment of P&C policyholders. In 2018, CEA needs \$17.3 billion capacity to meet rating-agency requirements: capital (\$5.7 billion), risk-transfer (\$9.2 billion – to cost CEA \$395 million), bonds (\$700 million), and personal insurance assessment layers (\$1.7 billion.) 2018 capacity costs will exceed 2017 by \$2 billion, and further steep increases will follow.

This week, the CEA Board approved pursuing the proposal, which entails drafting legislation and seeking an author. The target is Assembly Member Adrin Nazarian (Dem-North Hollywood). Insurer lobbyist talks with the Member's staff reinforce that plans to introduce a

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bill are very much in the early stages, and indications are CEA are late in the process and not particularly organized. The P&C assessment is a previously attempted effort, which comes with a great deal of opposition. CEA will be hosting stakeholder meetings over the next two weeks.

Eighteen Fire Insurance Measures Expected; 12 Introduced; 7 Formally This Week

Since five of the existing fire insurance bills were discussed in *This Week in Sacramento* last week, the following outlines those dropped this week.

[AB 1772](#) (Aguiar-Curry, Dem-Davis) 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. It maintains mandatory six months extensions for good cause. But, may just apply to non-disasters of the past the 12 months, and may be only one extension. The language is ambiguous, as is almost always the case with newly introduced legislation. This is an oppose unless amend measure because it is retroactive to 2005, but according to the Assembly Member's staff, this retroactivity was not intended.

Since it is limited to state of emergency, extending to 36 months may not have that significant an impact. The author has asked if companies would voluntarily give 36 months in the current wildfire areas.

[AB 1797](#) (Levine, Dem-Marín County) requires insurers to provide an estimate of replacement value for the insured property for new business and at renewal, and defines replacement value as described in the Insurance to Value (ITV) regulations. Further, if an insurer fails to comply with this requirement the insurer will be liable to the insured for the actual cost to replace the property, minus the amount of the policy coverage. The wording is unclear as is the intent, but as worded it appears to tie the requirement to all of the ITV regulations, not just the definition "replacement value" in the regulations. So arguably insurers would have to conduct a full ITV estimate for new business and at each renewal.

The liability provision is a non-starter. AB 1797 would increase costs significantly due to having to implement the ITV regulations at each renewal. This sets insurers up to liability if still underinsured. Insurers are inclined to remove opposition if ITV compliance is required less often.

[AB 1799](#) (Levine) requires insurers to provide a hardcopy and electronic copy of a certified copy of the policy (including endorsement and the declaration page) to an insured upon request. If a covered loss is not experienced, the insurer may provide the documents electronically. Insurers will seek to remove the certified requirement, which the author seemed open to. The measure is an opportunity for industry to make more progress on e-delivery, e-posting.

[AB 1800](#) (Levine) provides that in the event of a total loss of an insured structure that an insurer pay for full replacement cost, including extended replacement cost benefits, regardless of whether the insured rebuilds at the current location, or purchases an already build home at a new location. This oppose unless amended bill is difficult to defend, but may

be able to be narrowed if it only applies if building or purchasing a like house (so no windfall) and clarify that it does not include cost of land.

[AB 1919](#) (Wood, Dem Healdsburg) provides in the event of a declared emergency it is unlawful to increase rent by more than 10%. This may be an avenue to work with Attorney General Xavier Becerra on consumer-related legislation.

[AB 1923](#) (Limón, Dem-Santa Barbara) 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.

[SB 894](#) (Dodd, D-Vacaville) states that, in event of disaster, policy renewal increases from 12 months to two renewals, or 24 months, whichever is greater. Also, carriers have to offer / write new business during that period. If an insurer non-renews, it must report so the Insurance Commissioner. This bill is category priority kill.

[SB 897](#) (McGuire-D, Healdsburg) states that for additional living expenses (ALE), insurers are required to provide a list "in writing" of items believed covered. It may use the California 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. Industry opposes all provisions, some more than others, though.

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

Mudflow Insurance Coverage Bill Introduced

This week SB 917 (Jackson, Dem-Santa Barbara) was introduced in response to the mudflows affecting the city Montecito. The mudflows were the aftermath of significant rainfall on the area burned by the deadly Thomas Fire, a cascading series of disasters that caused the deaths of 21 people and damaged or destroyed 10 percent of the city's homes. While the city is working to rebuild and clear the tons of mud that still cover portions of the town, many homeowners face the prospect of relocating or rebuilding after significant damages.

SB 917 seeks to clarify that homeowners insurance policies cover damage that is caused by mudflows that are "directly attributable to another covered peril." Debate has emerged whether or not the damage from mudflows is covered or excluded under policies, specifically whether or not the damage was caused by the fire (a covered peril) or the mudflow alone

(under policy exclusions for water damage and earth movement). SB 917 argues that the Montecito mudflows can be directly attributed to the Thomas Fire, and under the California Supreme Court's ruling in *Sabella v. Wisler*, cannot be excluded from coverage.

Following its introduction, SB 917 is awaiting referral to a committee.

Fair Wage Act Introduced

AB 1902 (Levine, Dem-Marin) was introduced this week with the goal of increasing wages for subcontracted workers employed by large corporations. Titled the Fair Wage Act, the bill will require companies in California with a valuation of \$1 billion or greater to pay subcontracted employees wages that are tied to the Department of Housing and Community Development's income levels for the county in which they work. The bill's supporters say that raising the wages of subcontracted workers will help to address the issue of affordable housing that is prevalent in many areas of California, and assist with other high costs of living throughout the state.

Public Policy Institute of California Hosts Conversation with Legislative Leadership to Discuss 2018 Priorities

Yesterday, the Public Policy Institute of California (PPIC) hosted a talk with Assembly and Senate leadership to provide a broad overview of policy priorities for this year's legislative session.

Assembly Speaker Anthony Rendon (Dem-Lakewood) started with the topic of sexual harassment in the Assembly workplace. An Assembly-Senate Rules Subcommittee on the subject was formed in wake of multiple accounts of inappropriate behavior by legislators, as well as over 140 women who work in or with Members and staff that attested to the harassment within the Capitol culture. A letter signed by the women drew widespread attention nationally. The Subcommittee has held two hearings so far, and will issue a report in order to update policies that have not been addressed since 1993. The Speaker also broadly spoke on the need to reduce high poverty rates in the state, including through increasing housing availability, wages, and overtime. Rendon endorsed Governor Jerry Brown's enhancement of the State Rainy Day Fund, though.

On universal healthcare, Rendon endorsed the concept and suggested taking from Washington state and Oklahoma models, but continued articulating concern about SB 562 (Lara, Dem-Bell Gardens), which would require a state-run, mandated, single payer health program. In addition to costing \$400 billion, of which the state would need to find half, he reiterated problems in multiple areas, not the least of which include service delivery mechanics and complicated federal waiver requirements. The Assembly Universal Healthcare Select Committee has held two hearings on the topic for which it is named, a third will take place on February 7 on single payer, and shortly thereafter will issue its recommendations on a potential package of bills to be considered at some point. While the State Budget 2018-2019 increases Medi-Cal spending substantially, the Speaker did not anticipate additional healthcare spending than above the Governor's budget.

Other areas touched on, but with little detail, included how to get the necessary, additional 1.1 million college graduates in the workplace. While online education is proving effective, paying for new University of California and California State University Campuses has not been arrived at. Regarding changes to the state tax system, a key issue is reform that does not run off corporate investment, Rendon concluded.

Senate President pro Tempore Kevin De Leon (Dem-Los Angeles) said the body will continue to consider ways to protect the immigrant population from federal immigration enforcement actions. On tax policy, the Senate President commented that California is sending far more money to Washington than it receives in benefits, but he did not discuss ways to improve this situation. De Leon elected to pass on the topic of how to handle Senator Tony Mendoza's (Dem-Artesia) presence in the Senate, given sexual harassment allegations being investigated, calling it a "housekeeping matter."

Moments before De Leon arrived to the PPIC event, at the direction of the full Senate (27-9), the Senate Rules Committee voted unanimously to keep Senator Mendoza on the payroll but away from the Chamber and offices for 60 days or until an investigation into sexual harassment allegations concludes.

Senate Republican Leader Patricia Bates (Mission Viejo) focused on law enforcement issues, addressing the rising cost of living in California, deploying water bond funds for storage, and getting schools built with approved bonds.

Governor Brown Delivers Final State of the State Address

On Thursday of this week, Governor Jerry Brown gave his record-breaking 16th and final State of the State address to the California Legislature. The wide-ranging speech touched broadly on a number of issues without delving into any too deeply, while still outlining what Governor Brown sees as the path for his final year in office.

The biggest questions on everyone's mind were how the Governor would address what have become both his signature projects and the most controversial aspects of his second term – the Delta Tunnels project and High Speed Rail. Brown addressed these projects with his typical bluntness and unflagging support, stating of high speed rail that "I like trains and I like high-speed trains even better." Both projects have seen rapidly escalating costs that have been roundly criticized by their opponents, but the Governor framed that criticism as the same kind of pessimism that he faced when taking office in 2011. Brown drew a strong connection between his two legacy projects and the future aspirations of the state, stating "Yes, there are critics, there are lawsuits and there are countless obstacles. But California was built on dreams and perseverance and the bolder path is still our way forward."

Another controversial topic addressed by the Governor was the subject of infrastructure, specifically the gas tax that was signed into law last year. Opponents of the tax are collecting signatures for a ballot measure to overturn the tax, but the Governor spoke to those opponents directly by saying that "Fighting a gas tax may appear to be good politics, but it isn't. I will do everything in my power to defeat any repeal effort that gets on the ballot, you can count on it." Brown made the case that it is the state's responsibility to maintain its roads

and freeways, and that the gas tax is the way for the state to make these costly repairs. He argued that governments must do what individuals cannot, and that such projects are necessary even if they are expensive or unpopular.

Brown also touched on some recurring topics from previous speeches, such as education and reforms for the criminal justice system in California. Earlier this year Brown proposed an online community college available at low cost for all Californians, and during the speech he reiterated the need for this resource amidst a “struggle for funds” in the UC system. He also encouraged lawmakers to examine the criminal justice system and its rapidly growing budget. “My plea is relatively straightforward: Take time to understand how our system of crime and punishment has evolved, how other states and countries have devised their prison systems and what changes we now make.”