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State Senate

State Assembly

**Department of
Insurance**

Secretary of State

Today is a key legislative deadline as it is the last day for policy committees to hear and report fiscal bills to fiscal committees. The last day for policy committees to meet and report bills is July 6.

**Proponent Of Far Reaching Internet Privacy Initiative
Agreed To Pursue Legislation Instead; Bill Signed By
Governor**

[AB 375](#) is the product of a deal between a privacy initiative proponent, San Francisco real estate developer Alastair Mactaggart, Assembly Member Ed Chau (Dem-Alhambra), and Senator Robert Hertzberg (Dem-Van Nuys). The initiative contains severe penalties for data breach, including extreme litigation exposure to businesses. Of great concern is the initiative's prohibition on the disclosure or sale of consumer data to third parties, should a consumer engage this option.

In the "compromise bill," AB 375 provides a consumer the following rights: 1) to request deletion of personal information which would require the business to delete information upon receipt of verified request, 2) to request a business that sells the consumer's personal information, or discloses it for a business purpose, disclose the categories of information that it collects and categories of information and the identity of any 3rd parties to which the information was sold or disclosed, and finally, 3) to opt-out of the sale of personal information by a business prohibiting the business from discriminating against the consumer for exercising this right, including a prohibition on charging the consumer who opts-out a different price or providing the consumer a different quality of goods or services, except if the difference is reasonably related to the value provided by the consumer's data.

Covered entities under AB 375 include, any entity that conducts business in California and satisfies one or more of the following: 1) annual gross revenue in excess of \$25 million, 2) alone or in combination, annually buys, receives for the business' commercial purposes, sells, or shares for commercial purposes, alone or in combination, the personal, information of 50,000 or more consumers, households, or devices; or, 3) derives 50% or more of its annual revenues from selling consumers' personal information. These three thresholds would be very hard for a small business, including Independent Agents & Brokers of California and California Pool & Spa Association, to meet. Thankfully, unless a business is 50% selling

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personal information, the measure does not directly negatively impact.

After extensive meetings, negotiations and proposals that at one point had industry groups crying foul, final amendments went public Monday morning, leaving opponents to decide whether to back legislation or spend tens of millions of dollars campaigning against the initiative in the fall. The industry does not like the bill, but it likes the initiative even less. The bill only needed majority support, however. The agreement needed to pass both houses and be signed by Governor Jerry Brown by Thursday, the deadline for initiative proponents to withdraw measures from the November ballot. The Governor signed the bill on Thursday after the Senate passed it 36 to 0, as did the Assembly 69 to 0.

Those that support the bill include public interest groups, Consumer Attorneys California, and Privacy Rights Clearinghouse.

The California Chamber of Commerce testified in committee that the process has not allowed for meaningful amendments for a bill that is significantly flawed. The Chamber said that expanding liability for data breach is a non-starter for the business community. However, the stakes are too high to take on a ballot initiative. So, the preferred course is the legislative solution, even though AB 375 is flawed. The Internet Association, similar to the Chamber, prefers the bill away from the ballot box and in the legislative arena. In testimony, the Internet Association informed that this policy is sweeping and will impact virtually every aspect of the economy.

Other entities aligned with the Chamber's position are as follows: Personal Insurance Federation of California, Association of California Life & Health Insurance Companies, American Insurance Association, California Cable & Telecommunications Association, California Life Sciences Association, Civil Justice Association of California, TechNet, CompTIA, among many others.

Senate Judiciary Committee Chair Hannah-Beth Jackson (D-Santa Barbara) commented in committee that nobody is happy with the contents of the bill; however, it will add consumer protections and give the Legislature the ability to amend in future years. The author has stated the bill's delayed implementation date allows clean-up work to be done in 2019.

Assembly Insurance Committee Votes On Four Bills; Two Responding To Last Year's Firestorms

SB 880 (Pan, Dem-Sacramento) Employee Disability Payment Prepaid Card Use

This bill, until January 1, 2023, authorizes an employer, with the written consent of the employee, to deposit temporary disability indemnity payments for the employee in a prepaid card account that meets specified requirements, including, allowing the employee reasonable access to in-network automatic teller machines. The bill requires employers to provide all necessary aggregated data on their prepaid account programs to the Commission on Health and Safety and Workers Compensation upon request, and requires the

Commission to issue a report on or before December 1, 2022, to the Legislature regarding payments made to those prepaid card accounts.

John Norwood, Norwood Associates, representing Zenith Insurance Company, advised that this measure addresses the problem of lost or undelivered workers' compensation checks. Zenith writes the most agricultural worker workers' compensation in the state, and many are unbanked. Securing payment through prepaid cards prevents last resort options such as using payday lenders. Visa was supportive of the concept, but suggested it be implemented regulatorily. InsurCard testified against the written consent requirement of the recipient, which only 4 of over 40 states require, because it lowers the take up rate to 5% by workers. A global payments firm opposed out of state automated teller machine fees associated with prepaid cards. The California Bankers association considered the bill too prescriptive. On record support includes Zenith Insurance Company, the American Insurance Association, California Coalition on Workers Compensation, Property Casualty Insurers of America (PCIA), and California State Association of Counties. There is no registered opposition.

Status: The Assembly Insurance Committee passed this bill 13-0 for referral to the Assembly Appropriations Committee.

SB 894 (Dodd, Dem-Fairfield) Post Natural Disaster Residential Insurance Policies

This bill, after a total loss of a home in a declared disaster area, (1) requires an insurer to renew a residential insurance policy for at least 2 annual renewal periods or 24 months, whichever is greater; (2) requires an insurer to grant an additional 12-month extension for a total of 36 months for additional living expense (ALE) if an insured acting in good faith and with reasonable due diligence encounters a delay in the reconstruction process, subject to policy limits; (3) allows an insured to combine payments for actual losses up to the policy limits for the primary dwelling, other structures and contents, limited to the amount necessary to rebuild or replace the home if the policy limits for the dwelling are insufficient; (4) specifies that the payments for losses under this provision be full replacement value without requiring the replacement of the other structures or contents; (5) provides that the requirements for policy renewals are retroactive for any claim filed after July 1, 2017, for policies in effect on January 1, 2019; and, (6) specifies that the sections of this bill are severable.

Prior amendments clarified that after a total loss of a home in a declared disaster, an insured may combine payments for actual losses up to the policy limits for the primary dwelling, other structures and contents, limited to the amount necessary to rebuild or replace the home if the policy limits for the dwelling are insufficient; specified that the losses under this provision be treated as full replacement value without requiring the replacement of the other structures or contents; deleted a requirement that additional time to collect ALE benefits applies only to policies with a dollar limit on ALE; and, deleted retroactivity for the extension of time for ALE claims.

Committee amendments taken by the author advocated by insurers limit retroactivity of policy renewals; provide 30% of Coverage A instead of the author's preference to combine

Coverages B and C to replace a dwelling if there is insufficient Coverage A. Coverage A is for dwelling replacement; Coverage B is for other structures (eg. woodsheds); Coverage C is personal property.

The bill is sponsored by the Department of Insurance (CDI), and is supported by the City of Santa Rosa, Consumer Attorneys of California, Napa County Board of Supervisors, and United Policyholders. It is opposed by the American Insurance Association, and National Association of Mutual Insurance Companies. CDI testified that the bill weakens current practice, as 80% of claims from the recent firestorms had content replacement coverage in the 75% range without itemization. The Personal Insurance Federation of California said taking retroactivity out goes a long way to alleviating concerns. The Pacific Association of Domestic Insurance Companies shared PIFC's view. State Farm Insurance opposed unless amended to put a dollar limited on additional living expenses (ALE). John Norwood, representing First American Financial Corporation, Independent Insurance Agents & Brokers of California, and Liberty Mutual, testified that an ALE dollar cap is necessary on ALE up to 2 to 3 years. This bill increases ALE cost by 50%, which will result in insurers capping ALE.

Status: The Assembly Insurance Committee passed this bill 8-2, party line with Republican Assembly Members Phillip Chen (Diamond Bar) and Chad Mayes (Palm Springs) not voting. The bill was referred to the Assembly Floor.

SB 899 (Pan, Dem-Sacramento) Workers Compensation Apportionment

In its current form, this bill is intended to address parts of a recent Court of Appeal decision. In City of Jackson v. Workers Compensation Appeals Board, (2017) 11 Cal.App.5th 109, the Court ruled that it is appropriate to reduce permanent disability benefits on the basis genetics. Earlier versions of the bill sought to overrule that decision for a number of reasons, including the implications the case had related to racial, ethnic, and gender discrimination. The bill specifies that apportionment of permanent disability in the workers' compensation system cannot be based on race, gender, or national origin.

This bill is supported by the California Commission on Workers Compensation and has no registered opposition.

Status: The Assembly Insurance Committee passed this bill unanimously 13-0.

SB 917 (Jackson, Dem-Santa Barbara) Landslide Insurance Coverage

This bill requires insurance policies cover loss from landslide events. This measure provides that if loss or damage results from a combination of perils, one of which is a landslide, mudslide, mudflow, debris flow or other similar earth movement, coverage must be provided if an insured peril is the efficient proximate cause of the loss or damage and coverage would otherwise be provided for the insured peril. The measure also requires such coverage to be provided under the same terms and conditions as would be provided for the insured peril.

Consumer Attorneys of California supports codifying California case law, which requires property insurers to provide coverage whenever an insured peril is the "efficient proximate

cause” of a loss, as the bill provides. Other supporters include the [Rural County Representatives of California](#), [California State Association of Electrical Workers](#), and [United Policyholders](#). The [Personal Insurance Federation of California \(PIFC\)](#), and [Property Casualty Insurers Association of America](#) and [State Farm](#) oppose the bill. This could lead to increased costs for all policyholders, or a decision by insurers to limit their books of homeowners insurance. A major sticking point with the bill is whether coverage “shall be provided” versus “may not be denied.” PIFC prefers the latter, arguing it more accurately reflects case law. Insurers oppose that the bill codifies case law because it inevitably will lead to litigation over differing interpretation between the bill and legal decisions. At hearing, the [American Insurance Association](#) said amendments create requested guardrails, but the organization still has narrow concerns that are being discussed with the author.

Senator Hannah-Beth Jackson agreed to amendment advocated by Assembly Member Cooley that more closely flows and conforms with existing statute dating back to 1973 concerning efficient proximate cause and earthquake catastrophe. Senator Jackson assured Committee Chair Tom Daly (Dem-Anaheim) and Assembly Members Jim Frazier (Dem-Fairfield), Tim Grayson (Dem-Concord), Kansen Chu (Dem-San Jose), and Anna Caballero (Dem-Fresno) supporting Assembly Member Cooley’s position, further discussion with insurers would take place, but did not endorse insurer requested language around coverage “may not be denied.” The author advised that she would be keeping Assembly Members apprised of insurer good faith efforts. In the event the author does not perceive this is taking place, she would seek an Assembly Floor vote. Chair Daly considered the door open for additional discussion.

Status: The Assembly Insurance Committee passed this bill on a party line vote of 8-3 with Assembly Members Jim Cooper (Dem-Sacramento) and Assembly Member Chad Mayes (Rep-Palm Springs) not voting. The bill was referred to the Assembly Floor.

Assembly Judiciary Committee Passes Residential Property Insurance Renewal Requirement

[SB 824](#) (Lara, Dem-Bell Gardens) passed the Assembly Judiciary Committee 8-0 with two Republican Members not voting. The bill was referred to the Assembly Appropriations Committee. The bill requires an insurer to renew homeowners' insurance policies after a declaration of emergency and requires insurers to submit wildfire loss data to the Department of Insurance (CDI). It makes specified findings regarding the increasing risk of catastrophic wildfires due to climate change and the need for CDI to collect more data. It also prohibits an insurer from canceling or not renewing a homeowners’ insurance policy for one year from the date of a declaration of a state of emergency, based solely on the fact the property is in a county where a state of emergency has been declared.

In addition, SB 824 provides that an insurer does not have to renew a policy if the renewal threatens the financial solvency of the insurer and the insurer reports that solvency issue to the CDI. The legislation requires insurers with written premium of \$10 million or more to

report to CDI every 2 years residential property experience data for policies written in California. In a prior committee, amendments struck "threaten the financial solvency of the insurer" as an exemption to the requirement to renew homeowners' policies in the fire zone and replace it with language providing an exemption to mandatory renewal if the renewal of all of an insurer's policies in the fire zone would have a material, adverse impact on the insurer's reasonable rate of return. In addition, new language specifies that the premium threshold used to determine whether an insurer must respond to the data call is increased from \$10 million to \$12 million in 2025 and will increase by 20% every 5 years thereafter.

The bill is supported by CDI, Consumer Attorneys of California, and the League of California Cities. While all the major property and casualty insurer trade associations – the American Insurance Association, National Association of Mutual Insurance Companies, Pacific Association of Domestic Insurance Companies, and Personal Insurance Federation of California – oppose the bill, it has been amended to make it more workable, creating the real possibility industry will move to a neutral position. The author has agreed to continue to meet with insurers on resolution of applicability to residential and / or commercial property, and is leaning toward narrowing the bill to residential property.

The Legislature Passes Two Insurance Bills For Referral; Signed By Governor

Two insurance bills were approved by the Legislature and signed by Governor Jerry Brown yesterday.

[AB 1799](#) (Levine, Dem-Marín) requires the complete copy of a residential insurance policy provided to an insured after a loss to include the full insurance policy, any endorsements to the policy, and the policy declarations page. AB 1799 provides that if the request for a copy of the policy is a result of a loss in a state of emergency, the insurer may, upon the request of the insured, provide an electronic copy of the entire policy, as specified. The bill also provides that a request by an insured for an electronic copy of the policy does not constitute a request to participate in electronic communications or transactions for any other purpose.

Until recently, and unlike other financial services, it was not lawful for an insurer to offer policyholders the opportunity to conduct all or most of their transactions electronically. However, over the past few years, the law has incrementally developed to the point where most transactions and communications between an insurer and a policyholder can be conducted electronically, provided both parties agree to opt in, and provided that several statutory requirements are met. This bill provides a narrow, specific exception to the electronic transactions law so that a policyholder can request an email copy of their policy, and an insurer can provide the email copy, irrespective of either party's status with respect to the electronic transactions law.

The California Association of Realtors, California Department of Insurance, California Medical Association, Napa County Board of Supervisors, and the Sonoma County Board of Supervisors

are all in support of the bill. There are none registered in opposition.

AB 2229 (Wood, Dem-Santa Rosa) requires a residential property insurer to disclose any fire safety discounts it offers upon offer or renewal of a homeowner's insurance policy on or after January 1, 2020. Existing law requires an insurer to provide the Residential Property Insurance Disclosure when issuing or renewing a homeowner's insurance policy. The bill also requires the RPID to include information explaining coverage option choices, including actual cash value, replacement cost, extended replacement cost, guaranteed replacement cost, and building code upgrade coverages, and information regarding factors to be considered by the homeowner when selecting coverage limits

Supporters – the California Association of Realtors, California State Association of Electrical Workers, and Coalition of California Utility Employees – contend homeowners who take proactive steps to reduce their homes' vulnerability have a greater chance of having their homes withstand a wildfire. Such defensive measures may also be key to finding an insurer willing to offer homeowners' insurance. There is no formal opposition to the measure.

Senate Insurance Committee Passes 11 Insurance Measures; Largely Fire Insurance Related

To meet today's legislative deadline for policy committees to pass bills that have a fiscal key, the Senate Insurance Committee took action of the following bills. Each bill was referred to the Senate Appropriations Committee.

AB 1373 (Glazer, Dem-Orinda) **Annuities Buyers Guide Furnishing**

This bill requires life insurance agents and brokers to provide a consumer the appropriate deferred annuities buyer's guide adopted by the National Association of Insurance Commissioners. Annuities are purchased from a life insurance company, but unlike life insurance, the insurer makes periodic payments to the consumer and makes those payments during their lifetime. Annuities are usually sold as retirement planning vehicles.

Support & Opposition: This bill is supported by the Association of California Life & Health Insurance Companies and National Association of Insurance & Financial Advisors. There is no opposition.

Status: This bill passed the Senate Insurance Committee on consent 12-0.

AB 1875 (Wood, Dem-Santa Rosa) **Online Home Insurance Finder**

This bill requires the Department of Insurance to establish the California Home Insurance Finder on its website to help homeowners connect with an insurance agent or broker for residential property insurance. The bill requires the Department to survey agents, brokers, insurers, and appropriate trade associations about inclusion in the finder, and post participants' names, addresses, phone numbers, and websites to the finder on or before July 1, 2020. The bill requires the Insurance Commissioner to use social media and other tools to

promote the finder, to create materials in multiple languages, and to develop a pamphlet no later than July 1, 2020, that provides information on how to accurately estimate dwelling replacement costs.

Support & Opposition: The Department of Insurance, Independent Insurance Agents & Brokers of California, Property Casualty Insurers Association of America, American Insurance Association, and Pacific Association of Domestic Insurance Companies support the bill. There is no opposition.

Status: This bill passed the Senate Insurance Committee on consent 12-0.

AB 2046 (Daly, Dem-Anaheim) Workers Compensation Insurance Fraud Reporting

This bill adopts two recommendations from the State Auditor regarding workers' compensation fraud fighting efforts: (1) requires that a governmental agency in possession of information relating to workers' compensation fraud to, upon request of another governmental agency that uses the information for purposes of investigation, prosecution, or detection of workers' compensation fraud, provide that information to the requesting agency, and (2) authorizes the Fraud Assessment Commission to augment, rather than offset, its annual assessment on employers to fund the workers' compensation fraud program with unused funds from previous assessments.

Support & Opposition: This bill is supported by the Property Casualty Insurers of California. There is no opposition.

Status: This bill passed the Senate Insurance Committee on 12-0.

AB 2142 (Bigelow R) Homeowner Insurance Financial Condition

This legislation 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.

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

Status: This bill passed the Senate Insurance Committee on 11-0.

AB 2276 (Burke, Dem-Inglewood) Automobile Body Rate Survey

The bill requires an auto body repair labor rate survey to meet standards, including that it randomly surveys the number of shops necessary to obtain responses that achieve a minimum confidence level of 90% and a standard error of no more than 10%, and provides for a rebuttable presumption that the insurer has attempted, in good faith, to effectuate a

fair and equitable labor rate if the survey complies with the requirements of the bill.

The primary issue with stakeholders is determining the regional mapping within which surveys are conducted. Proponents prefer a wider area, such as local county workforce areas, than the California Autobody Association wants.

Support & Opposition: This bill is supported by the Personal Insurance Federation of California, Property Casualty Insurers Association of America, American Insurance Association, National Association of Mutual Insurers, Pacific Association of Domestic Insurers, and California Chamber of Commerce. It is opposed by the California Autobody Association.

Status: This bill passed the Senate Insurance Committee on 9-1 with Democratic Senator Richard Roth (Riverside) not voting.

AB 2395 (Calderon, Dem-Whittier) California Life & Health Insurance Guarantee Association

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

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

Status: This bill passed the Senate Insurance Committee on 12-0.

AB 2594 (Friedman, Dem-Glendale) Fire Insurance Lawsuits

Current law prescribes the standard form for a fire insurance policy or county fire insurance policy. Current law also 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. Existing statute 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.

To reconcile two code sections that are separate but related. Insurance Code § 2051.5 provides 24 months for an insured to rebuild or replace if the loss is related to a state of emergency. The timeframe for filing a lawsuit to protect the rights of the insured as permitted by Insurance Code § 2071 is set forth in the policy as 12 months from the inception of the loss. Adding the 24 month / declared disaster language into the policy provides

consistency within the code.

Support & Opposition: This bill is supported by the Department of Insurance, Consumer Attorneys of California, Consumer Federation of California, and Rural County Representatives of California. There is no registered opposition.

Status: This bill passed the Senate Insurance Committee 12-0 with Democratic Assembly Member Ben Hueso (San Diego) voting NO.

AB 2634 (Chau, Dem-Alhambra) Life Insurance Policy Cost Notices

AB 2634 requires the owner of a variable premium life insurance policy to be notified 120 days before an increase in the cost of insurance or administrative charge. According to the author, life insurance companies have been increasing certain components of the premiums charged for flexible premium life policies, in some cases dramatically. The notice required by this bill is intended to inform policy owners about the impact of these charges so that they can make choices about a response to the increase.

Support & Opposition: The Department of Insurance (sponsor) and California Advocates for Nursing Home Reform are the supporters. There is no registered opposition.

Status: This bill passed the Senate Insurance Committee 12-0.

AB 2802 (Friedman, Dem-Los Angeles) Insurance Payment Interception

Beginning January 1, 2020, this legislation requires an insurer to cooperate with the Department of Child Support Services to match claimants with obligors who owe past-due child support, and to report those claimants to the Department. The bill requires an insurer to match and report a claimant if his or her claim seeks an economic benefit, but exempts specified economic benefits, including a claim under a personal automobile insurance policy for actual repair, replacement, or loss of use of an insured vehicle.

Support & Opposition: This bill is sponsored by the Department of Insurance and supported by the Association of California Life & Health Insurance Companies, Personal Insurance Federation of California, Pacific Association of Domestic Insurance Companies, and American Insurance Association.

Status: This bill passed the Senate Insurance Committee 12-0.

AB 2844 (Cooley, Dem-Rancho Cordova) Insurance Agent Payment

This measure provides that a commission payable to a broker-agent be at the rate and in accordance with the terms specified in the written contract between the insurer and broker-agent. It also provides that there is a rebuttable presumption that a commission is lawful if it complies with laws protecting the broker-agent's property interest in the business in the event the insurer is terminating an agency appointment, including the right to commissions and the broker-agent's right to place policyholders with a different insurer; a provision of law

that guarantees the right of the broker-agent to commissions on the policy for one renewal period in the event the broker-agent is unable to place the policy with a different insurer; and, a provision of law adopted to implement Proposition 103's "take all comers" rule that bars insurers from discriminating on commission levels for the placement of automobile insurance policies with limits at the minimum Financial Responsibility Law requirements.

According to the sponsor, Mercury Insurance, the bill is needed to ensure that unwarranted litigation is not filed challenging contractual arrangements between insurers and agents or brokers. Proponents argue the bill is, essentially, a preventative measure designed to guarantee that contractual arrangements voluntarily entered into are not frivolously challenged in court; in this regard, Senate Insurance Committee Chair Steven Glazer (Dem-Orinda) raised the point that there is no existing problem the bill is attempting to resolve. The Department of Insurance is opposed because it perceives the bill as allowing insurer-agent contract compliance to be fulfilled when select provisions are complied with.

Support & Opposition: In addition to Mercury, the Personal Insurance Federation of California supports the bill. The Department of Insurance and Consumer Watchdog are opposed.

Status: This bill passed the Senate Insurance Committee 11-0 with Democratic Senator Holly Mitchell (Los Angeles) not voting.

AB 2927 (Nazarian, Dem-North Hollywood) California Earthquake Authority Insurer Assessment

Current law authorizes the California Earthquake Authority (CEA) to surcharge all CEA policies, in a net amount not to exceed \$1 billion plus costs of issuance and sale of those revenue bonds or other debt and amounts paid or payable to bond issuers and providers of credit support and letters of credit, to secure funds to repay the bonded indebtedness or other debt, and requires a CEA policy to include a specified notice of the surcharge to its policyholders.

This bill revises that provision to require the CEA, with the Treasurer as its agent, to sell investment grade revenue bonds in an amount up to \$1 billion plus costs of issuance and sale of revenue bonds, if existing sources of capital plus risk transfer provided through capital market contracts are exhausted.

Support & Opposition: This CEA sponsored bill is the only registered support and there is no formal opposition.

Status: The Senate Insurance Committee passed this bill 12-0.

Bill To Require Covered California To Assess Feasibility Of Public Insurance Plan Progressing Through Legislature

By a vote of 7-0, the Senate Health Committee approved [AB 2472](#), authored by Assembly Health Committee Chair Jim Wood (Dem-Santa Rosa), which requires Covered California to prepare an analysis and evaluation to determine the feasibility of a public health insurance plan option to increase competition and choice for health care consumers.

The bill requires, at a minimum, the feasibility analysis to include: 1) an actuarial and economic analysis of a public health insurance plan; 2) a plan to expand the participation of public health plans, including state licensed county organized health systems and local health plans; 3) a state developed public health insurance plan; 4) a list of necessary federal waivers for a state developed public health insurance plan; 5) a discussion of potential funding and state costs for a public health insurance plan; and, 6) an analysis of the extent to which a new public health insurance plan option could address the underlying factors that limit health plan choices in some regions.

According to the author, there are some counties in California that only have one health plan choice, including Monterey, San Benito, San Luis Obispo, Santa Barbara, Inyo, Mono, and in most of Kings County. Additionally 22 additional counties have 2 or fewer health plan choices. Although the Affordable Care Act has greatly reduced the number of uninsured in California, supporters site that premiums continue to rise for many consumers. One proposed solution to limited health plan competition in the individual market is the establishment of a public option as an alternative to existing private plans, contend the Assembly Member Wood.

The bill is supported by the American Federation of State, County & Municipal Employees California, Consumers Union, and the Western Center on Law and Poverty. There is no registered opposition.

The bill was referred to the Senate Appropriations Committee.

Multiple Labor Bills Passed By Jurisdictional Committees

The following legislation impacting employers passed jurisdictional committee before the June 29 deadline to approve bills that have are to be referred to Assembly and Senate Appropriations Committees.

[AB 1976](#) (Limón, Dem-Santa Barbara) Employer Lactation Accommodation

Current law requires every employer to provide a reasonable amount of break time to accommodate an employee desiring to express breast milk for the employee's infant child and requires an employer to make reasonable efforts to provide the employee with the use of a room or other location, other than a toilet stall, in close proximity to the employee's work area for the employee to express milk in private. This bill instead requires an employer to make reasonable efforts to provide an employee with use of a room or other location,

other than a bathroom, for these purposes.

- The Chamber achieved amendments to deem an employer to be in compliance with the requirement of providing a lactation location if the employer makes available a temporary lactation location that includes that the temporary lactation location be used only for lactation purposes. The Chamber will seek further bill changes to remove “location be used only for lactation purposes” as this was not the original request, and the Chamber will pursue a hardship exemption for employers with 50 or less employees.

Support & Opposition: The sponsor of the bill is the California Medical Association. Other supporters, of which there are four, include the American Civil Liberties Union and California Employment Lawyers Association. The opposition list is longer, 16 in total, including the California Chamber of Commerce, and 11 large industry trade associations. The National Federation of Independent Business is also opposed.

Status: On June 13, the Senate Labor Committee passed the bill party line 4-1 for referral to the Senate Appropriations Committee.

AB 2963 (Kalra, Dem-San Jose) Workplace Blood Level Reporting

This bill requires the Department of Public Health to consider a report from an employer of an employee’s blood level at or above 25 micrograms per deciliter to be injurious to the health of the employee and to report that case within 5 business days to the Division of Occupational Safety and Health.

Support & Opposition: This bill is supported by 11 organizations, including California Teamsters, Service Employees International Union – California, and the Environmental Working Group is the sponsor. There are 14 registered opponents, including the Chamber, Associated General Contractors, and National Federation of Independent Business.

Status: Yesterday, the Senate Labor Committee passed the bill party line 4-1 for referral to the Senate Appropriations Committee.

AB 3080 (Gonzalez-Fletcher, Dem-San Diego) Employment Discrimination Enforcement

This legislation 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.

Support & Opposition: This bill is sponsored by the California Labor Federation and supported by the American Civil Liberties Union of California and California Employment Lawyers Association. The opposition consists of the Chamber, the 15 largest industry trade groups, and the Civil Justice Association of California.

Status: Yesterday, the Senate Labor Committee passed the bill party line 4-1 for referral to the Senate Appropriations Committee.

AB 3081 (Gonzalez-Fletcher, Dem-San Diego) Workplace Sexual Harassment

Current law prohibits an employer from discharging or in any manner discriminating or retaliating against an employee who is a victim of domestic violence, sexual assault, or stalking for taking time off work to obtain relief or because of the employee's status as a victim of domestic violence, sexual assault, or stalking, if the victim provides notice to the employer of the status or the employer has actual knowledge of the status. This bill also 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 makes the filing deadline for these prohibitions and the reasonable accommodations requirement 3 years from the date of occurrence of the violation. It contains employer-employee joint liability.

Support & Opposition: The bill is supported by the California Teamsters and several women's organizations, among 12 other entities. It is opposed by the Chamber, 13 business trade groups, and 12 local chambers.

Status: Yesterday, the Senate Labor Committee passed the bill party line 4-1 for referral to the Assembly Floor.

SB 937 (Wiener, Dem-San Francisco) Workplace Lactation Accommodation

This bill 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 requires an employer to develop and implement a policy regarding lactation accommodation and make it available to employees.

Support & Opposition: The bill is supported by the California Employment Lawyers Association, California Labor Federation, and California Teachers Association. Opponents include the Chamber, American Insurance Association, and 8 large industry trade groups.

Status: On Wednesday, the Assembly Business and Professions Committee passed the bill 12-4 (Assembly Member Tim Grayson, Dem-Concord: Not Voting) for referral to the Assembly Appropriations Committee.

SB 1284 (Jackson, Dem-Santa Barbara) Employer Paydata Reporting

This bill requires private employers with more than 100 employees to submit an annual paydata report to the Department of Industrial Relations. This bill requires the Department to make the reports available to the Department of Fair Employment and Housing upon request. It imposes a civil penalty of \$500 on any employer who does not comply with the reporting requirement, and requires any penalties collected to be deposited into the Labor Enforcement and Compliance Fund, to be allocated upon appropriation by the Legislature to the Division of Labor Standards Enforcement to enforce wage differential laws.

- The author is considering Chamber-requested amendments to include intent language that state the bill is for data gathering purposes only and not for litigation purposes. If this language is accepted, the Chamber will remove the measure from its influential, and exclusive to the most egregious measures, Job Killer list.

Support & Opposition: The bill is supported by the Consumer Attorneys of California and the Service Employees International Union – California. There are 20 local chambers in opposition, in addition to the Chamber, as well 11 large industry trade organizations.

Status: On Wednesday, the Assembly Judiciary Committee passed the bill party line 7-3 for referral to the Assembly Appropriations Committee.

SB 1343 (Mitchell, Dem-Los Angeles) Workplace Sexual Harassment Training Requirements

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 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.

Support & Opposition: The bill is supported by 16 organizations, including 10 labor unions, such as California Teamsters, and the Consumer Attorneys of California. The California Manufacturers & Technology Association is the only registered opposition.

Status: Yesterday, the Assembly Labor Committee passed the bill unanimously 7-0 for referral to the Assembly Appropriations Committee.

SB 1412 (Bradford, Dem-Gardena) Job Candidate Criminal History

This bill prohibits an employer from asking an applicant about, or seeking from any source information regarding, a particular conviction of the applicant if it does not directly apply to job duties.

- The California Bankers Association (CBA) is leading the effort against this bill, as CBA is very concerned if a full background check cannot be obtained on a prospective employee, this will open the employer up to hiring negligence litigation.

Support & Opposition: This bill is sponsored by New Way of Life Reentry Program, a former Senator Rod Wright (Dem-Gardena) led organization. The Chamber and CBA oppose the measure, but the Committee Analysis does not have any others registered.

Status: Yesterday, the Assembly Labor Committee passed the bill party line 5-2 for referral to the Assembly Appropriations Committee.

Dynamex Decision Update

Regarding the recent Dynamex Decision by the California Supreme Court, in which the Court embraced a standard presuming all workers are employees instead of independent contractors if the contractor works exclusively for the one employer, Chamber coalition meetings with the Governor's office will begin shortly.

Female Membership On Corporate Boards Advancing In The Legislature

SB 826 (Jackson, Dem-Santa Barbara) requires a corporation or foreign corporation that is a publicly held whose principal executive offices are located in California to have a minimum of one female on its board of directors. By December 31, 2021, the bill increases that required minimum number to 2 female directors if the corporation has 5 authorized directors or 3 female directors if the corporation has 6 or more authorized directors. The bill requires the Secretary of State to publish reports on its website documenting the number of corporations in compliance with these provisions.

This bill is sponsored by the National Association of Women Owned Businesses – California, and it is supported by the Consumer Attorneys of California as well as Small Business California. The opposition is led by the California Chamber of Commerce and is opposed by the Personal Insurance Federation of California, 7 large industry trade organizations, and 12 local chambers of commerce. The Chamber points out that SB 826 seeks to manage the directors of publicly traded corporations that have its principal executive offices in California incorporated in another state. The internal affairs doctrine appears to dictate that the laws of the state where the company is incorporated apply for these issues, not the law of where the principal executive offices are located, such as California. Such confusion and ambiguity will only lead to costly fines as proposed under the bill and potential litigation.


The bill passed the Assembly Judiciary Committee 7-1 with one Republican Member opposing and the other two abstaining. The bill was referred to the Assembly Appropriations Committee.

Governor Signs \$201 Billion State Budget; Includes \$9 Billion Rainy Day Fund

Governor Jerry Brown signed a \$201 billion state budget on Wednesday that he said fulfilled a pledge to bring California government out of the abyss it faced in the recession when he took office 8 years ago.

The state faced a \$27 billion deficit when Brown took office for his second run leading California as governor in 2011, resulting in sharp cuts in services. The Governor's last budget, by contrast, projects a \$9 billion surplus for the coming year. It also puts the state on track to accumulate more than \$16 billion in savings that it can use to prepare for a recession.

"It's the right combination for the times we are in that we've been able to do this," Senate President pro Tem Toni Atkins (D-San Diego) said at the news conference. Governor Brown



did not veto any items in the budget.

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