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State Senate

State Assembly

Department of
Insurance

Secretary of State

Tort Law & Public Policy Conference

This week the Independent Voter Project hosted a conference on tort law and public policy. The topics included asbestos litigation, privacy and data breach, out of state plaintiffs, and arbitration in California. Legislators, attorneys and members of the Capitol community presented on these topics, sharing their expertise and knowledge.

Asbestos

The first discussion involved asbestos litigation, specifically questioning whether or not there is a need for transparency. Assembly Member Adam Gray (D-Merced), Bo Kim (senior counsel of Perkins Coie), and Nicholas Vari (Partner, K&L Gates) were the panelists with Kim Stone from the Civil Justice Association as the moderator.

Asbestos litigation involves plaintiffs who, after allegedly developing a disease or condition in connection with their exposure to asbestos, bring lawsuits against companies who had in the past produced or used asbestos products. In recent years, California has become a hotbed for asbestos litigation, attracting a litany of plaintiffs not only from within the state, but also from other jurisdictions.

There are dual tracks regarding asbestos litigation. One track involves bankruptcy trusts. Many of the companies that produced or heavily used asbestos have gone bankrupt and have established asbestos personal injury trusts to pay claimants who allege to have been injured by exposure to asbestos-containing products. While the bankruptcy trust model has grown in usage and popularity among defendants faced with insurmountable asbestos liabilities, so have the number of trusts. This has increased the existing problems associated with integrating trust compensation into the traditional tort system. The second track is through that traditional civil court system against companies who have not filed bankruptcy.

When a person is injured by asbestos, that person or the plaintiff's attorney, will make a list of the companies that may have supplied or manufactured the asbestos that the plaintiff was exposed to. This list will include the bankruptcy trusts and companies that are still open. Vari opined that the problem with this two track system is that the fact finder in the civil litigation case never hears about the trust claims because it is not required that the plaintiff file the trust claims prior to the tort case is heard.

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Budget Item

Because with these kinds of cases the turning point is exposure, however minimal the exposure was, it is imperative that the jury or judge learn about the other exposures within the bankruptcy trusts according to Kim. He also stated that one potential solution to this problem is to have the plaintiff or plaintiff's attorney provide a sworn statement regarding what trusts the plaintiff has filed or has the potential to file to the defendant and fact finder, and at the same time have the court retain jurisdiction after the case is completed to have the ability to sanction when a plaintiff files a trust claim after the civil litigation case that was not included in the sworn list.

Stone asked whether this type of solution would delay the expedited nature of these trials at all and both Kim and Vari thought that it would not. Stating, basically, that this type of new policy would occur within the same window as the typical expedited case and that it would be a much impartial, open system.

Gray, a coauthor for the last legislative attempts to address this issue, commented that the greatest hurdle for this type of legislation are the Judiciary Committees, in both houses, considering the sympathetic nature of the plaintiff. That although there is a legitimate fairness argument made by the proponents of a solution, that the plaintiff is still very sympathetic in the public's eye and that any changes are held to great scrutiny by the Legislature.

Privacy

The next panel discussed the issues and lawsuits surrounding privacy and data breach. On this panel were Assembly Member Jim Cooper (D-Elk Grove), Hank Dempsey (Chief Consultant for the Assembly Privacy and Consumer Protection Committee), and Eric Goldman (Professor at Santa Clara Law School).

One of the overall topics was what kind of regulations could be developed to protect against data breaches and who should regulate this type of technology in general. Assembly Member Cooper compared this to climate change, California is the leader regarding climate change and did not wait for the federal government to solve those problems. Internet crimes are so rampant in the nation from privacy issues, pornography, to data breaches that California needs to take a stand and develop tools for law enforcement to get ahead of these issues.

The Privacy and Consumer Protection Committee is fairly new to the Legislature and their preve is still being developed. Dempsey stated that the committee has heard a lot of bills regarding law enforcement as well as private company use of consumer information. He also stated that California has a very valuable role in regulating this industry and that the bills that are heard in this committee are the start of this regulation. One interesting note was that right now the legislature seems very concerned regarding how law enforcement gains access to information and little to no concern regarding how a commercial company obtains, stores or uses that same information. The outlook was shared that right now law enforcement officers must jump through hoops to gain privacy information in connection with an investigation; whereas, a corporation is free on how to use or store that same information to the point that the law enforcement office might find it easier to just purchase the same information from a private corporation.

California is unique in that the state gives its citizens a constitutional right to privacy. Yet even with this right, it is very difficult to actually prove harm when a data breach occurs and even harder to prove that one party is responsible when a data breach occurs. There is a need to produce a balance between a consumer's knowledge and understanding of privacy policies versus a corporation's right to retain and use private information to help prevent these data breaches and limit the harm when they do occur.

Because of the recent data breaches it was discussed that there are questions surrounding private information being collected by private corporations including: (1) why does the corporation need to retain information, (2) how does that corporation store information, and (3) what is the duration that the company retains the information. From these questions come the solutions, whether those are through statute making, corporations hiring privacy consultants, or following privacy by design principles while the technology is in development.

California Courts and Out of State Plaintiffs

This panel included Mark Behrins (Partner, Shook, Hardy & Bacon), Steven Benz (Assistant General Counsel, Eli Lilly), and Jarhett Blonien (Managing Member, BBC Public Affairs). The panel started with the general introduction regarding the difference between class actions and mass actions. Class actions occur when one plaintiff serving as the plaintiff for a large group who have similar harm. Mass actions (mass tort) are more geared toward a product causing harm to a large group of individuals, whose harm is different among the group. For example, where a pharmaceutical company's drug causes harm to a large group of individuals, but the actual harm, be it death or various health impairment, is different from individual to individual.

Mass torts start with an advertising scheme, either on the internet and television. Law firms are spending, across the United States, about \$1 billion in advertising for these types of cases. When a potential plaintiff calls from these advertisements, the firm that answers the phone is actually not the firm that will handle the case, instead they package it in a way to sell the case to another firm that these firms will work the case through litigation. About 25 law firms are handling about 95% of the mass torts in the United States and are bringing the cases to California.

One of the effects that the advertisements are having is that people actually stop taking their medications when they see the advertisements rather than talking with their doctor beforehand because they fear the symptoms reported in the advertisements. So it was discussed that these advertisements should be judged by either the state bar, the American Bar Association, or whether there should be statute written or federal regulations developed regarding these kinds of advertising.

After the case is packaged and sold to a firm a plaintiff's attorney files the case in a chosen venue. Many plaintiff's attorneys favor California because the court system and juries are known to be sympathetic toward the plaintiffs. The California court system is also known for having one of the easiest burdens of proof for asbestos and pharmaceutical cases, and certain parts of California (San Francisco and Los Angeles as examples) are known for producing high rewards for plaintiffs especially for asbestos and pharmaceutical cases.

Once an attorney has 5,000 to 10,000 cases against a particular defendant, whether the cases are weak or meritless, the attorney will contact the defendant to settle, hoping that with the large number of cases the defendant will simply settle rather than putting a microscope to each individual case. These attorneys will hope that those cases that are weak or meritless will be lost in the herd. Benz stated that there have been some cases that when a spotlight is brought onto individual cases in these mass torts it has been found that the plaintiff did not have even take the pharmaceutical produced, but this was only be discovered when each case is looked at closely, and when there are thousands of cases brought at once it is nearly impossible to do so for each one.

The last discussion was the *Bristol-Myers Squibb v. Superior Court* case that was just handed down in a 4-3 decision. In this case only 12% of plaintiffs were from California and Bristol-Myers did not manufacture the drug in California, but because Bristol-Myers has sales representatives and research facilities in the state a plaintiff in Vermont (or any other state) could sue Bristol-Myers in California. The dissenting judge actually stated that this decision insists that anyone outside of California can sue any company in California. This discussion will be going to the Supreme Court, but for now this decision could result in corporations thinking very carefully regarding what they will continue to do in California because their minimum contacts have now been expanded exponentially regarding civil liabilities within California courts.

Arbitration in California

The last panel was on whether or not the arbitration laws in California are fair. The panelists included: Assembly Member Donald Wagner (R-Tustin), Jennifer Barrera (CalChamber), Ed Dudensing (Attorney), Alison Merrilees (Chief Counsel, Assembly Judiciary Committee), Charles Post (Shareholder, Weintraub Tobin).

Regarding arbitration in general, some parties find it much more efficient than going through the court. The court is so backed up right now that it can take five years to bring a case to trial whereas arbitration takes about a year. The contentious area regarding arbitration is whether or not the results are the same.

Barrera opined that there have been studies that have shown that the settlement results are the same between arbitration and when the case goes to court. Dudensing argued against this stating that, if it were fair, post-dispute arbitration would actually be used much more often. Whereas pre-dispute arbitration is used and in Dudensing's view, it is pushed in very unfair ways on these future plaintiffs. Berrera argued that post-dispute arbitration is rarely used because either party now has "skin in the game" regarding the case so either or both now do not want to use the more cost-effective, efficient system. While Berrera and Dudensing disagreed almost completely, Merrilees stated that really, it depends.

Assembly Member Wagner stated that in the Legislature, wholesale arbitration legislation attempts to prohibit arbitration have failed because many in the Legislature believe that not all arbitration agreements are unfair and the Legislature also sees the value of arbitration agreements because of the amount of stress it takes off the court system.

There is the Federal Arbitration Law that prohibits states from prohibiting arbitration agreements. In a U.S. Supreme Court case, *AT&T vs. Concepcion*, the court stated that Federal Arbitration Act of 1925 preempts state laws that prohibit contracts from disallowing class-wide arbitration. As a result, businesses that include arbitration agreements with class action waivers can require consumers to bring claims only in individual arbitrations, rather than in court as part of a class action.

California Health Conference

This week Capitol Weekly hosted the California Health Conference. The Conference included panels on the health of the health care system, the ballot background, the patients' perspective, and the politics of health care.

Health of the Health Care System

On the health of the health care system were Amber Didier (California Legislative Analyst's Office), David Panush (California Health Policy Strategies), Daniel Ramirez (Capitol Impact Partners) and Teresa Stark (Kaiser Permanente). The panel started with a background regarding the Affordable Care Act (ACA), noting how a small bill in California that forced health plans to send a letter when the rates increased, helped spur the movement towards the passage of the ACA with the moral of the story being – small bills in California can have national ramifications, especially in healthcare.

One of the questions moderator Brian Joseph of FairWarning.org asked each panelist was how is the health care system failing patients. Panush made the comment that there is just not enough coordination, an example being the latest bill regarding children in foster care being given psychotropic medication without oversight or an overall system to provide whole health to these children. Panush opined that this is the downfall, that there is not a coordinated effort within healthcare to ensure the individual is receiving the care required.

Stark mentioned affordability. Integrating and coordinating care is crucial because patients are running all over the place and doctors not talking with doctors for the same patient resulting inefficient care. Stark mentioned that this is Kaiser Permanente's model and although she didn't believe that everyone should follow Kaiser's model, it is a model that shows that coordination can occur.

Stark also brought up pharmaceutical prices, stating that this issue needs to be on the table. Lighty expressed that not only to pharmaceutical prices need to be on the table that they need to be controlled through items such as Proposition 61. He also stated that insurance and providers need to be looked at, because their attempts at cost savings are not working either.

The Ballot Background

This panel included Rand Martin (MVM Strategy – AIDS Healthcare Foundation), Micah Weinberg (Bay Area Council), Anthony Wright (Health Access) and Daniel Zingale (The California Endowment). The story below also gives a general guideline, fiscal analysis and

support and opposition arguments regarding a few of these propositions. The moderator, Pauline Bartolone (Kaiser Health News), started with Proposition 61.

Martin started by stating that his group had worked on the proposition to draft it as a policy that met the goal to lower the prices of pharmaceuticals for Californians, effectively ensuring that the pharmaceutical companies are now forced to play at California's table, rather than California's people being forced to play at the pharmaceutical corporation's table. Weinberg stated that the initiative process is not the place for this type of policy discussion, though, and that it has not been proven that it would reduce prices, in fact it could increase prices. Weinberg also stated that objective people and entities have looked at this proposition and have stated that no one knows what this type of measure would actually do, even the LAO does not know.

Bartolone mentioned, regarding the other health care propositions, that health care provider groups are the ones who putting these propositions on the ballot and they are very self-interested, in that these propositions will directly support the providers. Bartolone then posed the questions of whether or not this is the proper form or use of the ballot process. Zingale and Wright both opined that because of the difficulty of passing funding bills within the Legislature that it is appropriate for these types of measures to be on the ballot.

Wright mentioned that, regarding the tobacco tax, tobacco health care costs Medi-Cal 3.2 billion a year, so adding to that funding and possibly reducing tobacco use is something that Californians should be considering. Bartolone stated that California has one of the highest tobacco rates in the nation, we just raised the smoking age, and California has one of the lowest rates of tobacco use, so why is this necessary. Weinberg basically stated that there are more children and people that we could save though, not to mention the advent of the vape, which is grabbing kids into tobacco use now.

The Patient's Perspective

This panel included Yvonne Choon (California Medical Association), Richard Kravits (UC Center Sacramento), Jocelyn Montgomery (California Association of Health Facilities) and Jane Stevens (ACEsTooHigh.com).

One of the key items discussed during this panel was communication between healthcare staff and the patient. Kravits noted that the best hospitals and health care providers train and educate their staff constantly to ensure they are receptive to patient's needs and easily communicate with patients regarding their condition. One of the biggest complaints in the health care world is that a doctor, specialist or nurse didn't tell the patient what was going to happen, different options, or understand what the patient actually wanted if it is different than the regular health care regimens.

Montgomery also mentioned the growth and evolution of the health care systems, specifically catering to the millennial generation. This is important, especially in markets such as the Exchange because younger, healthier generations are needed to balance the older, ailing generations so that the costs and revenue are balanced. The evolution can include introducing more electronic systems, telehealth, and easier access to items like prescriptions using mail delivery systems.

The Politics of Health Care

This panel included Assembly Member Jim Wood (D-Healdsburg), Richard Figueroa (The California Endowment), Liz Helms (California Chronic Care Coalition), and Nick Louizos (California Association of Health Plans). Because the major topic regarding the politics on health care this last session, and on the ballot this year, there was a noted absence of a pharmaceutical company or representative from PhRMA, which would have provided the needed balance to this panel.

Louizos commented that for people in healthcare politics, this year almost felt like two years combined. In January and February there was the quick passage of the MCO Tax, and even that is only a three year fix. Then the actual health care bills including pharmaceutical pricing was addressed by the legislature, but never actually passed, and now there is a ballot fight regarding the same issue.

Regarding next year, moderator Emily Bazar (Kaiser Health News) ask each panelist what they thought next legislative session held for health care. Assembly Member Wood stated that behavioral health care needs to be addressed next year and it is one of his top priorities. Others stated mandates, the cost of care and increasing preventative services.

California Ballot Measures Part One

With a voter guide that is over 200 pages long including 16 ballot measures, we thought it would be a good idea to go through the measures in separate parts. This is the second of a four part series on the ballot measures that Californians will be voting on in November.

[Proposition 52: Voter Approval to Divert Hospital Fee Revenue](#)

Proposition 52 would allow the California Legislature be permitted to amend the hospital fee program via a two-thirds vote, but only when the proposed changes "amend or add provisions that further the purposes of the Act."

The federal government's Medicaid program helps pay for health care services provided to low-income patients. In California, this program is called Medi-Cal. For a state to receive federal Medicaid funds, the state has to contribute a matching amount of its own money. In 2009, a new program was created such that California hospitals were required to pay a fee to help California obtain the available federal Medicaid funds. This program has resulted in California hospitals receiving roughly \$2 billion a year in additional federal money to Medi-Cal. However, California has diverted some of the funds from the hospital fee program to the state's general fund.

If the initiative is approved by the state's voters, it will add language to the California Constitution to require voter approval of changes to the hospital fee program to make it harder for the legislature to divert these funds from the original intended purpose of supporting hospital care to Medi-Cal patients and to help pay for healthcare for low-income children.

The fiscal effect of this measure is uncertain primarily because it is not known whether the Legislature would have extended the hospital fee absent the measure. If the Legislature would have extended the hospital fee absent this measure, the measure would likely have relatively little fiscal effect on the state and local governments. If the Legislature would not have extended the hospital fee absent the measure, the measure could result in state General Fund savings of around \$1 billion annually and increased funding for public hospitals in the low hundreds of millions of dollars annually.

The supporters argue that the proposition would "keep a good idea" working by extending the Medi-Cal hospital fee program and that it would keep legislators from diverting federal matching funds from their original purposes superfluously by requiring that voter approval be obtained first. Advocates state that the proposition would generate three billion dollars in federal matching funds without costing the taxpayers any money.

The opponents of the proposition state that it would divert resources from patients and communities to special interests and that it would not require any sort of accountability for hospital CEOs and lobbyists regarding how money is spent. Opponents state that the proposition would not guarantee that funds are spent on healthcare and would only favor corporations and hospital CEOs.

[Proposition 60: Require the Use of Condoms in Pornographic Films](#)

Proposition 60 will require performers in adult films to use condoms during filming of sexual intercourse, and requires producers of adult films to pay for performer vaccinations, testing, and medical examinations related to sexually transmitted infections. The proposition will require producers of adult films to obtain state health license, and to post condom requirement at film sites and imposes liability on producers for violations, on certain distributors, on performers if they have a financial interest in the film involved, and on talent agents who knowingly refer performers to noncomplying producers. The proposition also permits state, performers, or any state resident to enforce violations.

This proposition would likely produce a reduction of state and local tax revenues of several million dollars per year. There is also a potential of increased state costs that could exceed \$1 million annually to license and regulate adult film production and to enforce workplace health and safety rules. These costs would be offset to some extent by new fee revenue.

In November 2012, Los Angeles approved Measure B, which required pornography actors to wear condoms on set. The measure also required producers of adult films to pay an annual fee to Los Angeles County's Department of Public Health. Vivid Entertainment, a pornography firm, initiated a lawsuit in an attempt to get Measure B overturned. Kayden Kross and Logan Pierce, pornography workers, joined as plaintiffs. Paul Cambria, the plaintiffs' attorney, viewed the initiative as violating the First Amendment of the U.S. Constitution. He argued that the measure imposed an unconstitutional restraint on workers' freedom of expression. In August 2013, Judge Dean Pregerson upheld the law as constitutional and concluded the measure would, in fact, help alleviate health issues. In December 2015, California's Fair Political Practices Commission alleged that the measure opposition group, the No on Measure B committee, received \$343,000 from pornography organizations with ties to Luxembourg and Cyprus—a violation of the state ban on financial contributions from foreign

principals. The state ethics agency announced on December 7, 2015, that the committee agreed to pay \$61,500 in fines for violating campaign finance laws.

The supporters of the proposition state that it would hold pornographers accountable for work safety and health, specifically by closing loopholes and improving enforcement of existing law.

The proposition would only hold adult film producers, director, and agents accountable, not adult performers and would reduce the risk of sexually transmitted diseases for adult performers and the larger community. Supporters argue that the proposition would save taxpayer money in that taxpayers would have to pay for less treatments for sexually transmitted diseases and other related diseases.

The opponents argue the proposition language is poorly drafted, would lead to many lawsuits that could threaten the safety of adult performers and would violate worker privacy. Opponents also argue that the proposition would instate the proponent as a state employee who would review pornographic films for infractions, and only legislators would be able to vote the proponent out of the position if necessary.

Opponents also opine that this proposition would cost taxpayers millions of dollars unnecessarily.

[Proposition 61: Prescription Drug Price Regulations](#)

Proposition 61 could be one of the most expensive ballot measure battles in 2016, and could be the ballot measure with the most money spent on it ever in California's history, with the combined amount of money raised by the support and opposition campaigns totaling to over \$68 million.

This initiative was designed to restrict the amount that any state agency could pay for drugs, tying it to the price paid by the U.S. Department of Veterans Affairs (VA)—an organization that falls under certain state laws regarding drug price negotiations. The measure would apply in any case in which the state ultimately provides funding for the purchase of drugs, even if the drugs are not purchased directly by a government agency. The measure only applies to the purchasing of drugs by state agencies and does not apply to purchases made by individuals and exempts purchases under managed care programs funded through Medi-Cal.

Amber Didier, an analyst for the state's Legislative Analyst's Office, stated that it was not possible to give an accurate estimate of how this measure would impact state finances. Didier said, "There are potentially different ways that pharmaceutical companies could react to this that would then influence the fiscal impact."

On May 10, 2016, the legislative analyst indicated that the fiscal impact was still uncertain, listing three possible fiscal scenarios that could result from the measure:

- (1) **Drug Manufacturers Offer Lowest VA Prices to the State.** If manufacturers choose to offer the lowest VA prescription drug prices to the state, this measure may achieve state savings to the extent that the lowest price paid by the VA is lower than that paid by state entities. However, these savings could be at least partially offset if

manufacturers respond by raising the prices of other drugs paid for by the state but not purchased by the VA.

- (2) Drug Manufacturers Decline to Offer Lowest VA Prices to the State. The measure places no obligations on drug manufacturers to offer prescription drugs to the state at the lowest VA price. Therefore, drug manufacturers may decline to offer the state some or all of the drugs purchased by the VA at the lowest price paid by the VA. This manufacturer response could result in various state responses, each of which generates further uncertainty around the fiscal effects of the measure. These state responses could include:
 - a. State Programs Could Modify Formularies. Most state departments and programs have discretion over which drugs they make available to their beneficiaries. Should manufacturers decline to extend VA pricing on some or all drugs to these state entities, the entities may change which drugs they make available, offering only (1) those drugs that the VA does not purchase and (2) drugs that manufacturers will offer at the lowest VA price.
 - b. DHCS May Have to Disregard Measure's Price Ceiling. DHCS, as administrator of California's Medi-Cal program, is required by federal Medicaid law to offer most Food and Drug Administration (FDA)-approved prescription drugs to beneficiaries. Failing to offer an FDA-approved drug would likely result in the loss of federal financial participation in the pharmacy portion of the Medi-Cal program. Should manufacturers decline to extend VA pricing to Medi-Cal, DHCS may have to disregard the measure and pay higher prices than the measure allows in order to comply with federal Medicaid law. Furthermore, the measure could endanger the supplemental rebates that DHCS collects from drug manufacturers because these rebates derive from voluntary state agreements with manufacturers that, were the negotiated prices higher than the VA's, could contravene the measure's provisions about allowable agreements. In such circumstances, the measure could raise DHCS spending on prescription drugs.
- (3) Drug Manufacturers Raise VA Drug Prices Given Their New Pricing Benchmark Role. To continue to be able to offer prescription drugs to state entities and minimize reductions in their revenues, drug manufacturers may elect to raise VA drug prices. The fiscal effect of the measure would vary under this scenario depending on the extent to which manufacturers raise VA prices and tie state prices to the higher VA prices. When VA drug prices were previously extended to Medicaid nationally, drug manufacturers responded by raising VA drug prices before the U.S. Congress subsequently removed the linkage between VA and Medicaid pricing.

Supporters of the proposition would fight price-gouging from drug companies, would provide better access to live-saving drugs and would save taxpayers billions of dollars in healthcare costs.

Opponents are that the proposition would hurt veterans by increasing prescription drug prices for them. Opponents also argue that this would reduce patient access to medicines, would increase bureaucracy, red tape, lawsuits, and taxpayer costs and would increase state prescription drug costs. Opponents also argue that the proponent wrote special provisions for his own organization regarding the proposition.

[Proposition 62: Repeal the Death Penalty](#)

The measure would repeal the state death penalty and replace the maximum punishment for murder with life in prison without possibility of parole. It would apply retroactively to those already sentenced to death.

The potential fiscal impact of this bill would be net ongoing reduction in state and county criminal justice costs of around \$150 million annually within a few years, although the impact could vary by tens of millions of dollars depending on various factors.

Supporters of this proposition state that it would save taxpayer money by replacing a costly, inefficient system that is unworkable. Supporters also state that it would provide criminals the opportunity to work and pay restitution to victims' families, would provide victims' families closure, and would eliminate the risk of executing an innocent person. The proposition is supported by former death penalty advocates.

Opponents state that the proposition would protect the worst criminals while diminishing protection of victims' rights. Opponents also state that the proposition would cost taxpayers millions of dollars and would end the death penalty system when it should be mended.

Legislative Update

Governor Edmund G. Brown Jr. signed the following bills:

[AB 168 \(Maienschein\)](#): This bill requires the Department of Health Care Services to develop and submit a proposal to participate in a demonstration project authorized under the United States Protecting Access to Medicare Act of 2014 (H.R. 4302) to improve mental health services provided by certified community behavioral health clinics to Medi-Cal beneficiaries

[AB 326 \(Frazier\)](#): This bill amends existing law related to civil wage and penalty assessments for prevailing wage violations.

[AB 655 \(Quirk\)](#): This bill increases fees for licensed rendering plants, collection centers and registered transporters of inedible kitchen grease and provides how additional fees may be increased.

[AB 1033 \(Garcia\)](#): This bill authorizes a state agency to use a consolidated definition of small business when preparing the economic impact assessment for administrative regulations proposed for adoption, amendment, or repeal.

[AB 1066 \(Gonzalez\)](#): This bill enacts the Phase-In Overtime for Agricultural Workers Act of 2016

[AB 1069 \(Gordon\)](#): This bill authorizes a pharmacy that exists solely to operate the existing county-operated prescription drug collection and distribution program to repackage a reasonable quantity of donated medicine in anticipation of dispensing the medicine to its

patient population. The bill also requires the pharmacy to have repackaging policies and procedures in place for identifying and recalling medications; and requires the medication that is repackaged to be labeled with the earliest expiration date.

[AB 1362 \(Gordon\)](#): This bill establishes an alternative appointment process for the San Mateo County Mosquito and Vector Control District's governing board.

[AB 1399 \(Baker\)](#): This bill authorizes the addition of the California Domestic Violence Victims Fund checkoff to the personal income tax return upon the removal of another voluntary contribution fund from the return, or as soon as space is available.

[AB 1553 \(Irwin\)](#): This bill provides that a provision of the State Contract Act, prohibiting the recipient of a consulting services contract from bidding on a subsequent contract the recipient requires or suggests, does not apply to a contract between the California Achieving a Better Life Experience Act Board and a program consultant for the ABLE program.

[AB 1670 \(Dodd\)](#): This bill authorizes the Department of Alcoholic Beverage Control to issue a maximum of five new original on-sale general licenses, over a one-year period, for bona fide public eating-places in the County of Napa.

[AB 1712 \(Obernalte\)](#): This bill authorizes child care contractors to use digital signatures and requires that those signatures have the same force and effect as manual signatures

[AB 1747 \(Weber\)](#): This bill requires a public or private postsecondary education institution located in a county that participates in the Restaurant Meals Program to increase access to and provide information about the program, as specified. This bill also requires the Department of Social Services to act as the state entity for receipt of federal reimbursement on behalf of an organization, institution, or agency that secures funds for CalFresh outreach activities, as specified. This bill creates the Public Higher Education Pantry Assistance Program Account in the Emergency Food Assistance Program Fund and allocates account funds.

[AB 1757 \(Waldron\)](#): This bill increases the North County Transit Districts compensation limits for the District's Board of Directors.

[AB 1775 \(Obernalte\)](#): This bill conforms tax return deadlines for business entities to recent changes in federal law.

[AB 1808 \(Wood\)](#): This bill amends the definition of a "professional person" to include a marriage and family therapist trainee, a licensed professional clinical counselor trainee, a registered psychological assistant, a psychology trainee, an associate clinical social worker, or a social work intern while working under supervision, in order to provide specified mental health services to a minor twelve years of age or older under specified circumstances, and requires a trainee or intern to consult with his or her supervisor

[AB 1842 \(Levine\)](#): This bill imposes an additional civil penalty of up to \$10 per gallon or pound of material illegally discharged into state waterways. This bill requires the penalty to

be reduced by every gallon or pound of the illegally discharged material recovered and properly disposed of by the responsible party. Additionally, this bill prohibits a person from being subject to both this penalty and the civil penalties imposed under the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act.

[AB 1845 \(Dahle\)](#): This bill authorizes the Department of Fish and Wildlife to authorize the take of rough sculpin, a fully protected fish, resulting from replacement of Spring Creek Bridge in Shasta County if specified conditions are met.

[AB 1847 \(Stone\)](#): This bill expands the current employee notification requirement relating to the federal Earned Income Tax Credit (EITC) to include a reference to the California EITC.

[AB 1907 \(Daly\)](#): This bill repeals the authorization for the Department of General Services to sell the Orange County Fair (OCF) and removes OCF from the list of state assets to be sold.

[AB 1928 \(Campos\)](#): This bill extends the date from January 1, 2010, to January 1, 2019, by which the California Energy Commission (CEC) is required to adopt landscape irrigation equipment performance standards and labeling requirements. Additionally, the bill prohibits the sale of new irrigation equipment on or after an effective date established by the CEC. Requires the CEC to consider recent advancements in landscape irrigation efficiency when developing the standards and requirements.

[AB 1978 \(Gonzalez\)](#): This bill creates a registration process for janitorial employers and requires sexual harassment and violence prevention training for janitorial workers.

[AB 2016 \(Alejo\)](#): This bill requires the Instructional Quality Commission to develop, and the State Board of Education to adopt, modify, or revise a model curriculum in ethnic studies, and requires that a school district or charter school which elects to offer a course in ethnic studies to offer the course as an elective in the social sciences or English language arts and make the course available in at least one year during each student's enrollment in grades nine to 12.

[AB 2056 \(Garcia\)](#): This bill requires the California Student Aid Commission if it requires the verification of high school graduation to be submitted electronically-as permitted under current law, for purposes of meeting the eligibility requirements for a Cal Grant award, to provide guidance to school districts so the verification of graduation is submitted as soon as possible but no later than August 31st.

[AB 2083 \(Chu\)](#): This bill allows agencies, at the request of an interagency child death review team, to disclose otherwise confidential information to members of the team for the purpose of investigating child death.

[AB 2139 \(Williams\)](#): This bill authorizes the Ocean Protection Council (OPC) to develop an ocean acidification and hypoxia science task force to ensure that decision making is supported by the best available science. Specifically, this bill, requires, subject to the

availability of funding, OPC to take various actions to address and adapt to ocean acidification.

[AB 2230 \(Chu\)](#): This bill amends an existing overtime exemption for private school teachers to tie the exemption to comparable public school teacher salaries, rather than the state minimum wage. Specifically, this bill provides that an existing overtime exemption for private school teachers applies if, on and after July, 2017, the employee earns the greater of the following:

(1) No less than 100% of the lowest salary offered by any school district to a person who is in a position that requires the person to have a valid California teaching credential and is not employed in that position pursuant to an emergency permit, intern permit, or waiver.

(2) The equivalent of no less than 70% of the lowest schedule salary offered by the school district or county in which the private school is located to a person who is in a position that requires the person to have a valid California teaching credential and is not employed in that position pursuant to an emergency permit, intern permit, or waiver.

[AB 2274 \(Dababneh\)](#): This bill authorizes the Ocean Protection Council to develop an ocean acidification and hypoxia science task force to ensure that decision making is supported by the best available science. Specifically, this bill, requires, subject to the availability of funding, OPC to take various actions to address and adapt to ocean acidification.

[AB 2325 \(Bonilla\)](#): This bill requires, on or after January 1, 2019, a pathologist diagnosing cancer to report cancer diagnoses to the Department of Public Health (DPH) by electronic means in a format prescribed by DPH and establishes a pilot project to enable DPH and authorized users to conduct electronic specific data element searches of the information collected by the Ken Maddy California Cancer Registry.

[AB 2337 \(Burke\)](#): This bill expands employer notice requirements regarding domestic violence employee protections. Specifically, this bill provides that an employer shall inform each employee of his or her rights established under current law protecting employees affected by domestic violence, by providing that information in writing to new employees upon hire and to other employees upon request. This bill requires the Labor Commissioner to develop a form that an employer may use to satisfy this notice requirement.

[AB 2361 \(Santiago\)](#): This bill authorizes security guards employed by the University of Southern California (USC) to be appointed as peace officers while enforcing the law on the USC campus and surrounding university property.

[AB 2364 \(Holden\)](#): This bill requires a community college district to exempt all special part-time students, as specified, from nonresident fees and allows these students to be reported as resident full-time equivalent students to receive associated state apportionments.

[AB 2437 \(Nazarian\)](#): This bill requires on and after July 1, 2017, an establishment licensed by the Board of Barbering and Cosmetology (BBC) to post a model notice pertaining to workplace rights and wage and hour laws, developed by the Labor Commissioner and requires the BBC to inspect for compliance of the posting requirement.

[AB 2450 \(Achadjian\)](#): This bill requires contracts with government agencies restricting the use of property for owner-occupied housing available at affordable cost to be recorded.

[AB 2470 \(Gonzalez\)](#): This bill requires a district to provide water to an Indian tribe outside of the district's boundaries upon request of the tribe.

[AB 2491 \(Nazarian\)](#): This bill authorizes local jurisdictions to restrict parking, stopping, and standing of vehicles in the vicinity of driveways used by certain emergency vehicles.

[AB 2273 \(Irwin\)](#): This bill prohibits a member of the active militia, including the California National Guard, from being prosecuted for a military crime, under state authority, based on an attempt to kill him or herself.

[AB 2307 \(Chau\)](#): This bill establishes a uniform reporting protocol for service agents that discover a device that facilitates fraud found during their repair of a weighing and measuring device.

[AB 2511 \(Levine\)](#): This bill clarifies that biochar is a soil amendment that is included in the definition of "auxiliary soil and plant substance" and, therefore, subject to licensing and labeling laws, and defines "biochar" to mean materials derived from thermochemical conversion of biomass in an oxygen-limited environment containing at least 60 percent carbon.

[AB 2529 \(Linder\)](#): This bill authorizes local jurisdictions to restrict parking, stopping, and standing of vehicles in the vicinity of driveways used by certain emergency vehicles.

[AB 2560 \(Obernalte\)](#): This bill authorizes the California Board of Accountancy to promulgate emergency regulations if it determines, under the current Practice Privilege Program, that allowing individuals from a substantially similar state to practice in California violates its duty to protect consumers.

[AB 2632 \(Olsen\)](#): This bill specifies that work as an investigative reporter whose experience is comprised of primary investigations is included as required experience for qualification for the Private Investigators licensure examination.

[AB 2744 \(Gordon\)](#): This bill clarifies that certain types of advertising do not constitute a referral when the third party advertiser does not recommend, endorse, or otherwise select a healing arts licensee to provide the service.

[AB 2745 \(Holden\)](#): This bill makes various changes to the Medical Practice Act.

[AB 2746 \(Obernalte\)](#): This bill requires the California Public Utilities Commission (CPUC) to adopt procedures authorizing the submittal of electronic signatures and documents by all parties on contracts involving the CPUC.

[AB 2808 \(Gipson\)](#): This bill extends the January 1, 2017 sunset date of Horse Racing Law's exchange wagering provisions by four years.

[AB 2819 \(Chiu\)](#): This bill restricts access to court records filed in an unlawful detainer action to any person after the complaint has been filed unless the plaintiff prevails in the action within 60 days of filing the complaint. This bill also permits a court to dismiss an unlawful detainer proceeding without prejudice if proof of service is not filed within 60 days of the complaint's filing.

[AB 2828 \(Chau\)](#): This bill requires any agency, person, or business that owns or licenses computerized data that includes personal information to disclose a breach of the security of the system to any California resident whose encrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person, if the encryption key or security credential was, or is reasonably believed to have been, acquired by an unauthorized person, and the entity that owns or licenses the encrypted information has a reasonable belief that the encryption key or security credential could render that personal information readable or useable.

[AB 2833 \(Cooley\)](#): This bill requires every public investment fund to require each alternative investment vehicle in which it invests to make specified disclosures regarding fees and expenses and to present the disclosed information in a report at a public meeting at least annually.

[SB 465 \(Hill\)](#): This bill permits the Contractors State Licensing Board (CSLB) to enter into an interagency agreement with state or local agencies to ensure that the Board receives specified disciplinary information relating to a contractor in a timely manner; requires a licensee to report to the CSLB the occurrence of any conviction of any felony or crime, as specified; requires the California Building Standards Commission to convene a specified working group and recommend any statutory changes or changes to the California Building Standards Code (CBSC); requires the Division of Occupational Safety and Health, after consultation with the CSLB, to transmit to the CSLB copies of any citations or other actions taken by the division against a contractor, as defined; and requires the CSLB to report the results of a study to determine if the CSLB's ability to protect the public would be enhanced by specified regulations.

[SB 872 \(Hall\)](#): This bill allows the board of supervisors of any county to contract on behalf of the sheriff of that county, and the legislative body of any city to contract on behalf of the chief of police of that city, to provide supplemental law enforcement services to private schools, private colleges, and private universities on an occasional or ongoing basis.

[SB 883 \(Roth\)](#): This bill conforms the punishment for a violation of a protection order issued after conviction of an offense involving domestic violence to the punishment for other similar protective orders. Specifically, this bill:

(1) Punishes the first violation of a post-conviction domestic violence restraining order with imprisonment in the county jail for up to one year, by a fine of up to \$1,000, or both.

(2) Requires a first violation to include imprisonment in the county jail for at least 48 hours if the violation resulted in physical injury.

[SB 905 \(Bates\)](#): This bill authorizes the Department of Alcoholic Beverage Control to issue a club license to a nonprofit umbrella organization consisting of multiple veteran organizations established to provide a central meeting location, resources, and services for veterans and does not discriminate or restrict membership.

[SB 945 \(Monning\)](#): This bill creates a statewide standard for the operational requirements of pet boarding facilities and facility operators.

[SB 970 \(Leyva\)](#): This bill requires the Department of Resources Recycling and Recovery, in awarding a grant for organics composting or anaerobic digestion projects funded with AB 32 cap-and-trade revenues and authorizes CalRecycle to provide larger grant awards for large-scale regional projects.

[SB 1015 \(Leyva\)](#): This bill deletes the sunset date on the Domestic Worker Bill of Rights, which granted overtime compensation to specified domestic workers.

[SB 1029 \(Van Nuys\)](#): This bill requires state and local government debt issuers to report to the California Debt and Investment Advisory Commission specified information about proposed and outstanding debt.

[SB 1221 \(Hertzberg\)](#): This bill directs the Commission on Peace Officers Standards and Training to make the existing continuing education classroom training course related to law enforcement interaction with persons with mental disabilities available to the State Fire Marshal, who may revise the course as appropriate for firefighters.

[SB 1232 \(Leno\)](#): This bill requires a county human services agency that uses information contained in a consumer credit report for the determination of CalFresh or CalWORKs eligibility or benefit level to obtain written authorization from the applicant or recipient prior to obtaining the credit report and to provide the recipient with a specified notice. This bill prohibits county human services agencies from requiring CalFresh or CalWORKs applicants or recipients to provide hard-copy documentation that is duplicative of the information obtained from the credit reporting agency.

[SB 1270 \(Galgiani\)](#): This bill extends, until January 1, 2022, the authority for the California Department of Food and Agriculture to establish a fee schedule for cost recovery related to animal health services that do not provide benefits beyond the payer; and, makes technical non-substantive changes.

[SB 1353 \(Pan\)](#): This bill makes necessary technical changes to eliminate possible confusion over how to calculate the applicable unfunded actuarial obligation when

determining future adjustments to the state contribution rate pursuant to the 2014 California State Teachers' Retirement System Full Funding Plan.

[SB 1359 \(Block\)](#): The bill requires, beginning January 1, 2018, each campus of the California Community Colleges and the California State University, and requests each campus of the University of California, to clearly highlight the courses that use digital course materials that are free of charge.

[SB 1433 \(Mitchell\)](#): This bill provides that any incarcerated person in the state prison who menstruates shall, upon request, have improved access to personal hygiene materials, and contraceptive services

[SB 1455 \(Block\)](#): This bill provides that a student meets residency requirements for school attendance if the student's parent is transferred or is pending transfer to a military installation that is within the boundaries of the school district.

Governor Brown vetoed the following bills with a blanket statement: "Each of these bills creates a new tax break or expands an existing tax break. In total, these bills would reduce revenues by about \$300 million through 2017-18. As I said last year, tax breaks are the same as new spending – they both cost the General Fund money. As such, they must be considered during budget deliberations so that all spending proposals are weighed against each other at the same time. This is even more important when the state's budget remains precariously balanced. Therefore, I cannot sign these measures."

[AB 717 \(Gonzalez\)](#): This bill provides a temporary sales and use tax exemption for diapers designed, manufactured, processed, fabricated, or packaged for use by infants and toddlers, designated size three or under.

[AB 724 \(Dodd\)](#): This bill establishes a sales and use tax exemption for tangible personal property purchased by the Jimmy Doolittle Air and Space Museum Education Foundation for display purposes

[AB 1561 \(Garcia\)](#): This bill establishes a sales and use tax (SUT) exemption for tampons, sanitary napkins, menstrual sponges, and menstrual cups.

[AB 2085 \(Irwin\)](#): This bill creates the Office of Military Legal Assistance within the California Military Department and requires it to serve as a clearinghouse for the coordination of attorneys offering pro bono legal services to military service members needing legal representation.

[AB 2127 \(O'Donnell\)](#): This bill increases the allowable percentage of gasoline or diesel fuel that may be included in blended alcohol fuel from 15% to 18%, and makes corresponding changes to the definition of "gasohol."

[AB 2279 \(Cooley\)](#): This bill requires the Department of Health Care Services (DHCS) to annually compile county revenue and expenditure information related to the Mental Health Services Act (MHSA) based on the existing Annual Mental Health Services Act Revenue and

Expenditure Report (Annual MHSR Report) and requires the information compiled to be made available by DHCS to the Mental Health Services Oversight and Accountability Commission (MHSOAC), and requires the Commission to make the information publicly available online.

[AB 2728 \(Atkins\)](#): This bill extends the sunset date on the tax credit allowed for defined community development investments until 2018, and declares Legislative intent that the authority of the Department of Insurance to issue a data call to insurers will be extended.

[SB 898 \(Nguyen\)](#): This bill enacts a sales and use tax (SUT) exemption for the sale of animal blood sold by a nonprofit animal blood bank.

[SB 907 \(Galgiani\)](#): This bill extends conformity to federal laws income exclusion for discharges of qualified principal residence indebtedness.