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California Links

State Senate

State Assembly

Bill to Require Workers Compensation for Day Laborers Not Being Pursued

AB 206 (Gonzales-Fletcher, Dem-San Diego) is not currently being pursued by the author as a result of heavy insurance industry lobbying against the measure. It would have eliminated the 52-hour threshold for residential workers or employees to be covered for workers' compensation insurance under a homeowners or renters insurance policy. This effectively means any person who is paid \$100 or more would be covered for workers' compensation when hired by the homeowner or renter. The focus of the bill is to expand the coverage for workers' compensation to day laborers.

This bill was a priority kill target for the insurance industry and the lobbying effort proved effective as it was so badly damaged that the author has held off on seeking a vote. On behalf of the Independent Insurance Agents & Brokers of California, Liberty Mutual Insurance Company, and the California Pool & Spa Association, Norwood Associates actively lobbied against the bill. Sponsored by the Applicant Attorneys Association and a Latino Caucus priority, this was one of the most controversial bills of the year in the insurance area.

Governor Declares Special Elections

Following a number of resignations in both the Senate and Assembly, Governor Jerry Brown declared this week that special elections would be held in June to fill the vacancies. The first will be held on June 5th for the 45th Assembly District in the Western San Fernando Valley, and will be held to replace Assembly Member Matt Dababneh who resigned following allegations of sexual harassment. There will also be a special election on the same day for the 54th Assembly District to replace Assembly Member Sebastian Ridley-Thomas who resigned at the end of 2017 for health reasons. Finally, a recall election for Senator Josh Newman of the 29th Senate District has been declared, as well as an election for his successor should the recall be successful.

**Department of
Insurance**

**Secretary of State
Official Legislative
Information**

Single-Payer Healthcare Still on Hold

In 2017, one of the most contentious and dramatic debates in the Legislature was over SB 562, a bill that would have established a single-payer healthcare system in California. The bill initially sped through the Senate after being introduced by Senator Ricardo Lara in response to the turmoil facing the state of healthcare at the federal level. However despite the fact that it moved through several committees and was approved by the Senate, many questioned the feasibility of the bill and the fact that it contained very few specifics for implementation.

Those questions were highlighted by Assembly Speaker Anthony Rendon when he made the decision to pull the bill from consideration. Rendon called the bill “woefully incomplete,” the most notable aspect of which being that it did not contain any funding mechanisms for the estimated \$400 billion it would cost the state. Proponents of the bill, including the California Nurses Association, insist that the cost savings for individuals would more than pay for the new system, but the fact that such pressing issues would be left to be determined at a later time led Speaker Rendon to shelve the bill until such questions were answered.

Six months after that decision was made, Rendon has stated that no progress has been made on amending the bill to move it forward. Despite heavy criticism from the sponsors who accused Rendon of killing the bill without cause, as a new legislative session begins Rendon says that “The sponsors of the bill have sat on their hands and done nothing for the past six months.” While an Assembly committee will meet next week to discuss options regarding universal healthcare, the fact that no progress has been made on such a high-profile bill does not speak well of its chances of success. Instead, the Speaker has indicated that he is interested in other options for universal healthcare that would mix public and private options rather than only focusing on single-payer.

Senate Democratic Caucus Selects New Pro Tem

This week, the Senate Democratic Caucus voted unanimously to elect Senator Toni Atkins from San Diego as the next President Pro Tempore of the Senate. Atkins will succeed Senator Kevin de Leon, who is termed out at the end of the year.

Atkins has previously served as the Speaker of the Assembly, and will be the first woman to serve as the Pro Tem of the Senate. Throughout her career as a legislator she has focused on issues surrounding affordable housing and labor rights, as well as working to write and pass a \$7.5 million water bond that was approved by the voters in 2014.

Following the vote by the Senate Caucus, Atkins released a statement saying “I’m honored and profoundly humbled by the trust placed in me today by my esteemed colleagues. I have devoted my life to public service and the promise of equity, justice, and respect for everyone. Leading this great State Senate and our united and always productive Caucus at this crucial

moment in history is an extraordinary opportunity and a great responsibility – and I believe every senator has a vital role in building a brighter future for the Californians we represent.”

A formal vote will take place on the Senate floor on March 21st, following which she will take office as the Pro Tem.

Fair Amount of Insurance Related Bill Introduction Early This Legislative Session

[**AB 479**](#) (Gonzales-Fletcher, Dem-San Diego) is the latest iteration of legislation dealing with alleged gender discrimination. Current law requires apportionment of permanent disability to be based on causation, and a physician who prepares a report addressing the issue of permanent disability due to a claimed industrial injury is required to address the issue of causation of the permanent disability. The physician is required to make an apportionment determination by finding the approximate percentage of permanent disability that was caused by the direct result of injury arising out of and occurring in the course of employment. This bill requires, when injury due to breast cancer is claimed, impairments to be considered, including the presence or absence of the organ, skin disfigurement, and pain, among other things.

This bill passed the Assembly Insurance Committee 11-0 this week and is now in the Assembly Appropriations Committee. The Division of Employee Occupational Illness Compensation within the United States Department of Labor does not use the child-bearing age factor in the American Medical Association Guides, 5th Edition. That would be an easy regulatory fix given California’s system, but certainly not enough to satisfy the supporters of this bill.

[**AB 1740**](#) (Daly, Dem-Anaheim) deletes statute regarding the actual cash value of the claim of total loss to a structure and instead requires that the actual cash value of the claim, for either a total or partial loss to the structure or its contents, be the amount it costs the insured to repair, rebuild, or replace what was lost or injured less a fair and reasonable deduction for physical depreciation based upon its condition at the time of the injury or the policy limit, whichever is less.

[**AB 1749**](#) (Daly) provides workers’ compensation benefits for peace officers from California who are injured in the course of performing duties as a police officer when off-duty at an event outside the state of California. This is in response to injuries to California peace officers at the Las Vegas shooting incident last year. Current law provides such benefits but only when the aid is provided within the state.

[**AB 1751**](#) (Low, Dem-San Jose) authorizes the Department of Justice (DOJ) to enter into an agreement with an entity operating an interstate data share hub for the purposes of participating in interjurisdictional information sharing between prescription drug monitoring

programs across state lines. The bill requires any agreement entered into by the Department for those purposes to ensure that all access to data within the Controlled Substance Utilization Review and Evaluation System (CURES) complies with California law and meets the same patient privacy and data security standards employed and required for direct access of CURES. The National Association of Boards of Pharmacy currently operates PMP InterConnect. Forty-two states participate in this program, including Arizona and Nevada. It may well be that the latest version of CURES (CURES 2.0) is compatible with this program, but the prior version was not.

[AB 1752](#) (Low) expands the list of drugs that would need to be reported under CURES. Provided CURES has the bandwidth to deal with this, this is supportable. The DOJ is working right now to get AB 40 (Santiago, 2017) implemented. That bill allowed for third party vendors to set up an integrated system so the providers' electronic healthcare records systems can link to CURES. This is widely identified as a positive step and will increase CURES participation. Some argue adding more obligations to CURES at this time really does not help unless their system and the systems of providers, hospitals, and clinics can talk to each other on a timely basis.

[AB 1772](#) (Aguiar-Curry, Dem-Napa) extends the minimum time limit during which an insured may collect the full replacement cost of a loss relating to a state of emergency to 36 months.

[AB 1799](#) (Levine, Dem-Marin County) specifies that the copy of a fire insurance policy be provided to a policyholder upon request include the full policy, any endorsements to the policy, and the policy declarations page, and authorizes the insurer to provide these documents in electronic form if agreed to by the insured.

[AB 1800](#) (Levine) extends the existing prohibition limiting or denying payment of the replacement cost of property in the event the insured decides to rebuild or replace the property at a location other than the insured premises by making it applicable in addition to any extended replacement cost coverage purchased by the insured and in addition to any increase in policy limits. The bill further requires the policy to permit the insured to recover full replacement cost benefits regardless of whether the insured rebuilds at the current location, rebuilds at a new location, or purchases an already built home at a new location.

[SB 824](#) (Lara, Dem-Bell Gardens) prevents insurance companies from dropping or nonrenewing customers following a wildfire disaster. Second, it requires insurance companies to offer mitigation discounts and continued coverage to homeowners who make investments in wildfire mitigation safety, including fire-resistant roofing and other materials. Third, it requires approval by the Department of Insurance before insurance companies reduce the volume of policies in high-risk fire areas.

Governor Brown Proposes 2018-2019 State Budget

This week Governor Jerry Brown proposed a \$131.7 billion General Fund budget plan for 2018-2019 that fills the state's Rainy Day Fund to its constitutional target, fully implements the state's Kindergarten-12 school funding formula two years ahead of schedule and provides \$4.6 billion for the first year of a 10-year transportation improvement plan. In stark contrast to the \$27 billion budget gap of 2011, the 2018 fiscal plan reflects a healthy one-time surplus and increases funding for education, healthcare, and other state programs.

With growing uncertainty about the impacts of new federal policies, combined with a longer than average economic expansion, the budget continues to bank higher revenues into reserves and pay down debts and liabilities. Significant details of the Governor's 2018-19 State Budget include:

Filling the Rainy Day Fund

Proposition 2, approved by California voters in 2014, established a constitutional goal of reserving 10% of tax revenues in a Rainy Day Fund. By the end of the current (2017-2018) fiscal year, the state's Rainy Day Fund will have a total balance of \$8.4 billion, or 65% of the constitutional target. The budget proposes a \$3.5 billion supplemental payment in addition to the constitutionally required transfer to the Rainy Day Fund for 2018-19. The two payments would bring the total Rainy Day Fund to \$13.5 billion.

More Funds for Education

In 2013, the state enacted the K-12 Local Control Funding Formula to increase support for the state's neediest students and restore local district flexibility over how money is spent in schools. With \$3 billion in new proposed funding for the formula in 2018-19, the budget will achieve full implementation of the formula two years ahead of schedule. To improve student achievement and transparency, the budget proposes requiring school districts to create a link between their local accountability plans and their budgets to show how this increased funding is being spent.

The minimum guarantee of funding for K-14 schools in 2007-2008 was \$56.6 billion and dropped to \$47.3 billion in 2011-2012 at the peak of the state budget crisis. From this recent low, funding has grown substantially, and is projected to grow to \$78.3 billion in 2018-19 – an increase of \$31 billion (66%) in seven years. For K-12 schools, 2018-19 funding levels will increase by about \$4,600 per student above 2011-12 levels.

Increased Higher Education Spending

The budget proposes the creation of the first wholly online community college in California. The online college would provide a new pathway to higher wages through credentials for those who don't currently access the California community college system. The budget

proposes a total increase of \$570 million (4%) for community colleges, including a new funding formula that encourages colleges to enroll underrepresented students and rewards colleges for improving students' success in obtaining degrees and certificates. As the new formula is implemented, no district will receive less funding than currently provided. Included in the community colleges budget increase is \$46 million for the first year of implementation for AB 19 (Santiago, 2017), which allows colleges to waive tuition for first-time, full-time students.

Additionally, the budget again increases state support for the University of California and the California State University by 3%. Since the end of the Great Recession, UC has received \$1.2 billion in new funding and the CSU has received \$1.6 billion. Over the same time period, funding for state financial aid that primarily supports low-income and first-generation students has increased by \$623 million to a total of \$2.3 billion. Given these funding increases, the budget reflects flat tuition and expects the universities and community colleges to continue to improve their students' success. With no tuition increases this year, university tuition, adjusted for inflation, will be below 2011-12 levels.

Continuing Healthcare Expansion

Amidst growing uncertainty at the federal level, the budget again provides funding to increase healthcare coverage to low-income Californians under the federal Affordable Care Act (ACA). California continues to be the national leader among states in implementing the optional expansion of ACA with nearly 3.9 million Californians covered in 2018-19.

Transportation Infrastructure

The budget reflects the first full year of funding under the Road Repair and Accountability Act of 2017 (SB 1), which provides longterm funding for state and local transportation infrastructure. This Act provides \$55 billion in new funding over the next decade, split evenly between state and local projects. For 2018-19, the budget includes \$4.6 billion in new transportation funding, which includes:

- A focus on "fix-it-first" investments to repair neighborhood roads, state highways and bridges (\$2.8 billion).
- Making investments in trade and commute corridors to support continued economic growth and implement a sustainable freight strategy (\$556 million).
- Matching locally generated funds for high-priority transportation projects (\$200 million).
- Investing in local passenger rail and public transit modernization and improvement (\$721 million).

Paying Down Debts and Liabilities

In May 2011, Governor Brown identified a \$35 billion Wall of Debt – an unprecedented level of debts, deferrals and budgetary obligations accumulated over the prior decade. That debt has been substantially reduced, and now stands at less than \$6 billion.

Combating Climate Change

California continues to work towards a state goal to reduce greenhouse gas emissions 40% below 1990 levels by 2030. In July, the Governor signed legislation to extend California's cap-and-trade program through 2030. Since then, auction proceeds (state revenues) have increased, resulting in \$1.25 billion in cap-and-trade funds available for appropriation in 2018-19. The plan for these funds will be announced in conjunction with the Governor's State of the State Address.