



June 15, 2018

Sacramento, California

John A. Norwood
Counselor at Law

Erin Norwood
Publisher

Contributors
Brittany Trudeau
Ted Wait

[Contact Us](#)
info@nalobby.net

Capitol Place
915 L Street, Suite 1110
Sacramento, CA 95814

(916) 447-5053
(916) 447-7516 fax

[California Links](#)

State Senate

State Assembly

**Department of
Insurance**

Secretary of State

Legislature Approves Budget

This week, the Legislature amended, heard, voted on and sent the final budget to the Governor's desk. They took their final action ahead of the June 15 deadline, completing all their work by Thursday afternoon. This Governor has secured increased control over the budget process each year he has been in office, and there is strong interest in whether the Legislature will seek to secure more of their power when the new Governor comes into office for the next budget cycle.

Governor Brown has until July 1 to sign or veto the budget bills and associated budget trailer bills. Many of the budget trailer bills are still waiting to be voted on, and this will likely occur early next week. The Governor has the authority to blue pencil veto individual appropriations, but he cannot increase appropriations above that approved by the Legislature. Reportedly there will be few, if any, vetoes this year, as the Governor already approved all of the elements of the budget deal.

Senate Insurance Committee Approves First Round Of Assembly Legislation This Session

AB 1772 (Aguiar-Curry, Dem-Napa) Fire Insurance Indemnity

This legislation extends the minimum time limit for an insured to collect the full replacement cost of a loss related to a state of emergency to 36 months. The bill also requires an insurer to provide additional extensions of 6 months if the insured, acting in good faith and with due diligence, encounters a delay or delays in approvals or reconstruction of the home. In addition, the measure requires all policy forms used by an insurer to be in compliance with these changes on or after July 1, 2019.

The Sonoma County Board of Supervisors supports AB 1772 because after losing a home or business in a fire resulting in a state of emergency, current law provides a policyholder with at least 2 years to rebuild their property and receive the full replacement cost coverage they paid for. The County maintains that 2 years is often insufficient time for families to rebuild the insured property. Rebuild times for the North Bay fires of 2017 are expected to be just as time consuming as the rebuild efforts from the Butte and Valley fires, which are still underway after more than 2 years. The Department of Insurance (CDI) is the sponsor and other supporters include the League of California Cities, Rural County Representatives of California, and Napa County. There is no opposition, and the measure was approved by

Official Legislative Information

the Senate Insurance Committee 9-0.

AB 1797 (Levine, Dem-Marin) Residential Property Insurance Rebuild Cost Estimate

This bill requires an insurer that provides residential property insurance to provide to the policyholder, every other year at the time of the offer to renew the policy, an estimate of the cost necessary to rebuild or replace the insured structure. The bill also provides that an insurer does not have to comply if the policyholder, within the past 2 years prior to the offer to renew, has requested, and the insurer has provided, coverage limits greater than the limits that were previously selected by the policyholder. The measure additionally provides that an insurer does not have to comply if, in connection with its annual offer to renew the policy, has offered the policyholder, on an every other year basis, the right to have a replacement cost estimate that complies with CDI regulation; and, includes an inflation factor that reflects the cost of construction in the policyholder's geographic area to the coverage limit for the dwelling with the offer to renew.

According to CDI, although current regulations outline what a replacement cost estimate must include, they do not require insurance companies to provide these estimates. Additionally, these estimates are not required to be updated. For this reason, a policyholder can be found to be underinsured due to an incomplete or dated cost replacement estimate. Supporters, including the California Association of Realtors, Mendocino, Napa, and Sonoma Counties, argue AB 1797 will help to reduce underinsurance by requiring insurers to perform and update complete and accurate replacement cost estimates providing critical assurance to policyholders. There is no opposition, and the bill passed the Senate Insurance Committee 10-0.

AB 1799 (Levine, Dem-Marin) Insurance Policy Document Furnishing

AB 1799 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. It 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. Lastly, the bill 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.

Proponents, including CDI, California Association of Realtors, and Napa and Sonoma Counties argue, obtaining coverage information from a fire insurance policy can be difficult unless insureds can receive the documents via email after a disaster. 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. This bill has no opposition, and passed on the Senate Insurance Committee consent calendar 10-0.

AB 1800 (Levine, Dem-Marin) Fire Insurance Indemnity

This measure prohibits, in the event of a total loss, a residential property insurance policy from containing a provision that limits or denies payment of building code upgrade cost or replacement cost, including extended replacement cost, to the extent those costs are

otherwise covered under the policy, based on the fact the insured has chosen to rebuild or purchase a home at a new location. The bill specifies that the measure of indemnity not exceed the cost to rebuild or replace at the original location.

Supporters, such as CDI and Mendocino and Sonoma Counties, maintain it may not be prudent for some families to rebuild in the area where their home burned down. This bill will provide policyholders who have lost their home to fire, and pay additional costs for additional coverage, the ability to rebuild or purchase a new home in an area that is safe, up to the value of their total policy limits. The bill has no opposition and also passed on the Senate Insurance Committee consent calendar 10-0.

AB 2229 (Wood, Dem-Santa Rosa) Residential Property Insurance Disclosures

Existing law requires an insurer to provide the Residential Property Insurance Disclosure (RPID) when issuing or renewing a homeowner's insurance policy. It 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. AB 2229 requires the RPID form to include information regarding any fire safety discounts offered by the insurer. The implementation date is January 1, 2020.

Despite their lack of formal opposition to the bill, insurers explain they already take mitigation measures into account in their underwriting and pricing. Mitigation such as brush clearance and creation of a perimeter must be maintained to be effective or may be dependent on the actions of neighbors or others. In order to offer discounts, insurers must include sufficient data in their rate application to demonstrate the actuarial reduction in losses produced by the specific mitigation efforts for which a discount is offered. Insurers advise that mitigation will have little impact in reducing losses in certain kinds of fires, including those driven by high winds such as in the Tubbs and Thomas fires. The bill is supported by the CA Association of Realtors, CA State Association of Electrical Workers, and the Coalition of CA Utility Employees. The bill passed the Senate Insurance Committee 11-0.

First Round Of Assembly Labor Legislation Voted On In Senate

AB 1867 (Reyes, Dem-Fontana) Employee Sexual Harassment Recordkeeping

This legislation requires an employer with 50 or more employees to maintain records of employee complaints of sexual harassment for 10 years from the date of filing. The bill authorizes the Department of Fair Employment and Housing to seek an order requiring an employer that violates the recordkeeping requirement to comply. The California Chamber of Commerce does not foresee the author accepting favorable amendments, and anticipates this legislation being difficult to stop. It is being pitched as a companion to AB 1870 discussed below.

Support & Opposition: The bill is sponsored by the California Teamsters and the California Employment Lawyers Association. Opponents include the Chamber, Associated Builders & Contractors Association, and 23 other trade groups.

Status: On Monday of this week, the Senate Labor Committee passed the bill 4-1 for referral to the Senate Floor.

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.

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 Chamber, and 11 large industry trade associations. The National Federation of Independent Business is also opposed.

Status: On Monday of this week, the Senate Labor Committee passed the bill 4-1 for referral to the Senate Appropriations Committee.

AB 2770 (Irwin, Dem-Thousand Oaks) Former Employer Sexual Harassment Communications

Current law makes employer communications protected from civil action, including certain communications concerning the job performance or qualifications of an applicant for employment that are made without malice by a current or former employer to a prospective employer. This bill includes among those privileged communications complaints of sexual harassment by an employee, without malice, to an employer based on credible evidence and communications between the employer and interested persons regarding a complaint of sexual harassment and authorizes an employer to answer, without malice, whether the employer would rehire an employee and whether or not a decision to not rehire is based on the employer's determination that the former employee engaged in sexual harassment.

Support & Opposition: This is a Chamber-sponsored bill. It is supported by 42 business entities, including the American Insurance Association, 14 large business trade groups, and many local chambers. There is no registered opposition.

Status: On Tuesday of this week, the Senate Judiciary Committee passed the bill 7-0 for referral to the Senate Floor.

Private Attorney Generals Act Reform Subgroup

Because of the State Supreme Court's April 30, 2018 Dynamex Decision, the Chamber has had few resources to pursue Private Attorneys General Act (PAGA) reform. PAGA authorizes aggrieved employees to file lawsuits to recover civil penalties on behalf of themselves, other employees, and the state of California for Labor Code violations. In Dynamex, the

Court embraced a standard presuming all workers are employees instead of independent contractors if the contractor works exclusively for the one employer. If there is any effort to reform PAGA, it would be in August of this year. And, it would be targeted changes. Assembly Members Heath Flora (Dem-Modesto) and Tim Grayson (Dem-Carmel) are holding tort reform district forums in the near future. In terms of Chamber strategy, it is important not to sustain any sizable legislative loss or secure something so small that labor points to reform and argues the subject does not need to be addressed for another decade. It may be the case that the effort needs to be put over to next year.

Assembly Republican Leader Dahle Calls For Special Conference Committee On Wildfire Safety And Insurance Liability

Today, Assembly Republican Leader Brian Dahle (Bieber) called on California's legislative leaders to convene a conference committee on the issues of wildfire safety, insurance, utilities and liability.

Dahle issued the following statement:

"Last year, thousands of Californians faced the loss of their homes and dozens lost their lives in the worst wildfire season on record. The legislative session is running out and we have complicated issues that need thorough, bipartisan hearings.

"Earlier this year I asked the Governor for a special session of the Legislature to deal with these issues. I am asking Senate President Pro Tempore Toni Atkins and the Speaker of the Assembly Anthony Rendon to form a conference committee to give these issues the attention they deserve. If the issues of wildfire safety, insurance liability and utility accountability are not handled properly, the results could be catastrophic. We need a solution that is comprehensive and well thought out."

Assembly Speaker Announces Committee Appointments; Senate President Announces Committee Appointments

Speaker **Anthony Rendon** (Dem-Long Beach) has announced appointing Assembly Member **Jesse Gabriel** (Dem-Baldwin Park) Assistant Majority Whip to fill the vacancy created when Assembly Member **Todd Gloria** (Dem-San Diego) became Majority Whip. Speaker **Rendon** has also announced the following committee changes.

Banking and Finance Committee

Assembly Member **Jesse Gabriel** replaces Assembly Member **Ian Calderon** (Dem-Whittier).

Business & Professions Committee

Assembly Member **Kevin McCarty** (Dem-Sacramento) has been appointed to the Committee, increasing membership from 18 to 19.

Labor & Employment Committee

Assembly Member **Luz Rivas** (Dem-Salinas) replaces Assembly Member **Kevin McCarty**.

Local Government Committee

Assembly Member **Luz Rivas** replaces Assembly Member **Ken Cooley** (Dem-Rancho Cordova); Assembly Member **Jesse Gabriel** joins as member.

Privacy & Consumer Protection

Assembly Member **Jesse Gabriel** replaces Assembly Member **Phil Ting** (Dem-San Francisco).

Revenue & Taxation Committee

Assembly Members **Luz Rivas** and **Phil Ting** replace Assembly Members **Rob Bonta** (Dem-Alameda) and **Kevin McCarty**.

Legislative Ethics Committee

Assembly Member **Luz Rivas** joins as member.

California Senate President pro Tempore **Toni Atkins** (Dem-San Diego) yesterday announced the following changes to Senate standing committees. The changes are to fill the vacancy necessitated by the recall of Senator **Josh Newman** (Dem-Fullerton).

Business, Professions & Economic Development Committee

Senator **Ben Allen** (Dem-Santa Monica) is appointed to the Committee as a member.

Health Committee

Senator **Jim Beall** (Dem-San Jose) is appointed to the Committee as a member.

Insurance Committee

Senator **Robert Hertzberg** (Dem-Van Nuys) is appointed to the Committee as a member.

Veterans Affairs Committee

Senator **Richard Roth** (Dem-Riverside) is appointed to the Committee as Chair.

In addition:

Governmental Organization Committee

Senator **Scott Weiner** (Dem-San Francisco) is appointed to the Committee as a member to fill the current vacancy.

Legislative Ethics Committee

Senator **Bill Monning** (Dem-Carmel) replaces Senator **Ed Hernandez** (Dem-Alhambra) as Chair of the Committee.

Note: If you have trouble displaying this newsletter on your mobile device, please visit [our website](#) to view and download a PDF copy.