



Capitol Advocacy Bulletin

Issue 34

September 1, 2016

2016 California End of Session Wrap-Up

The Legislature worked just beyond the clock on the final day of the 2015-16 Legislative Session, adjourning in the early morning hours of September 1st and inching past the August 31st midnight deadline. As usual, a myriad of high-profile bills were considered in the final weeks of session, from farmworker overtime and holiday double-pay, to cap and trade and prescription drug pricing. Of the more than 2,300 bills introduced in 2016, approximately 1,300 passed out of the Legislature and were sent to the Governor. In the final week of session alone, lawmakers approved over 800 of those measures.

Many of the less business-friendly proposals that surfaced in the Legislature stalled this year, including AB 67 by Assembly Appropriations chairwoman Lorena Gonzalez (D-San Diego), which would have mandated double-pay on holidays for retail employees working on Thanksgiving. AB 67 was broadly opposed by the business community and ultimately failed with only 31 of the needed 41 “aye” votes. The same is true for SB 878 by Senator Connie Leyva (D-Chino), which would have instituted predictive scheduling in the retail, grocery and restaurant sectors, requiring employers to provide three-week work schedules and one-week notice of schedule changes. SB 878 was held on the Senate Appropriations Suspense File in May.

Conversely, the moderate Democrats within the Legislature were unable to keep a handful of labor-backed bills at bay, to the disappointment of the business community. This was demonstrated earlier in the year when the Legislature and Governor approved a minimum wage hike, increasing it to \$15 per hour by 2022. It was also evident in the passage of AB 1066, also by Lorena Gonzalez, which will expand overtime pay for farmworkers, allowing them time and a half for working over 8 hours in one day or 40 hours per week, and double pay for working more than 12 hours in one day. AB 1066 garnered 44 “aye” votes, three more than the 41 necessary for passage. AB 1066 is a reintroduction of AB 2757, which failed by three votes in May. Gonzalez also carried that measure, raising eyebrows when she reintroduced it, in the same year, via AB 1066. Despite her bucking of the status quo, she eventually obtained the votes necessary for the bill’s passage with the help of Speaker Rendon. Assemblyman Eric Linder (R-Corona) was the sole Republican who voted in favor of the bill, in addition to five Democrats who previously opposed AB 2757 or abstained.

A bill to expand California’s Family leave law also cleared the Legislature on the last day of session. SB 654 by Senator Hannah-Beth Jackson (D-Santa Barbara) will allow employees of small businesses with 20-49 employees to take up to six weeks leave to care for their new babies. Likewise, a “pay parity” bill - AB 1676 by Assemblywoman Nora Campos (D-San Jose) is on its way to the Governor after receiving the Legislature’s approval. If signed, it will prohibit employers from basing a new employee’s salary exclusively on prior earnings.

LEGISLATIVE ANALYST

Lindsay Gullahorn
(916) 273-1208
lgullahorn@capitoladvocacy.com

CAPITAL ADVOCACY

1301 I Street
Sacramento, CA 95814
www.capitoladvocacy.com
(916) 444-0400

Governor Jerry Brown secured a major victory in the final weeks of session with the passage of climate change legislation via SB 32, despite lobbying from oil interests and some resistance from moderate Democrats who played an integral role in significantly paring down SB 350 in 2015 (which would have mandated a 50 percent statewide reduction in automobile petroleum and truck fuel by 2030, in addition to increasing California's Renewable Portfolio Standard to 50 percent by 2030 and doubling the state's energy efficiency goals). SB 32 by Senator Fran Pavley (D-Santa Monica) is seen as a critical step toward reauthorizing the state's climate change law (AB 32, 2006) and requires the state to reduce greenhouse gas emission levels to 40 percent below 1990 levels by 2030. It was sent to the Governor along with a companion measure, AB 197 by Assemblyman Eduardo Garcia (D-Coachella), which gives the Legislature more oversight of the California Air Resources Board (CARB). Governor Brown has indicated that he will sign both measures.

Numerous bills to reform the California Public Utilities Commission (CPUC), the entity that oversees the state's utilities, transportation and telecommunications companies, were introduced this session, largely in response to "ex parte" (e.g. unreported and private) communications between the CPUC and regulated entities. Governor Brown vetoed a package of these reform bills last year, stating that he could not support them because many of the proposed reforms were "unworkable." So, working with the Governor, legislators introduced several bills this year to reign in the CPUC, including a constitutional amendment (ACA 11) to dismantle the CPUC by Assemblyman Mike Gatto (D-Burbank). In concert with that constitutional amendment, Gatto also authored AB 2903, which would have implemented an array of reforms, including the establishment of an internal auditor and an ombudsman, increased access to public records, and shifting oversight of transportation companies. ACA 11 died in June and AB 2903 never made it out of the Senate on the final day of session, so it is dead in its current form. Despite the failures of these measures, other CPUC reform bills were successful, including SB 215 by Senator Mark Leno (D-San Francisco), which will tighten CPUC lobbying rules and increase ex parte communication reporting requirements. Governor Brown has indicated that he will sign SB 215.

Last year, the Governor called two special legislative sessions on transportation infrastructure and healthcare, but his ambitions hit roadblocks in the Legislature. Last year's misfortune became this year's victory for Brown when he was able to negotiate the passage of a managed care organization (MCO) tax in the spring. His approval of that tax, along with several bills to tighten tobacco laws, including increasing the smoking age to 21, closed out the special session on healthcare. Despite his success on the healthcare front, the special session on transportation remains open and incomplete. Bills have recently been introduced in the extraordinary session to increase the gas tax by 17 cents per gallon and impose an annual \$165 registration fee for electric vehicles, prompting speculation that lawmakers may return to Sacramento in the fall for a lame duck session. This rumor has not been substantiated, however, so it remains to be seen if work in the transportation special session will be completed.

Also in the healthcare realm, Senate Health Committee chair Ed Hernandez (D-West Covina) authored SB 1010 this year, which sought to increase transparency with respect to prescription drug prices. After the Legislature was aggressively lobbied by the pharmaceutical industry, Hernandez decided to drop the bill two weeks before session adjourned. Although SB 1010 is dead, Proposition 61 is still on the November Ballot, which would institute certain price controls on drugs.

Bills dealing with scope of practice met similar fates as SB 1010. SB 538 by Senator Ben Hueso (D-San Diego), which would have allowed naturopathic doctors to independently prescribe certain controlled substances, and AB 1306 by Assemblywoman Autumn Burke (D-Inglewood), which would have increased the scope of practice of certified nurse midwives, both failed in the lower house after stiff opposition from the physician community. A bill to increase nurse practitioners' scope of practice stalled earlier in the year when Senator Hernandez, the author, decided not to move it.

Other noteworthy measures that are dead, at least for this year in their current forms, include bills to regulate Internet Poker and daily fantasy sports (AB 2863 and AB 1437, respectively), both by Assembly Governmental Organization Chair Adam Gray (D-Merced). And just before legislators adjourned for a month-long summer recess in July, Governor Brown vetoed five of the eleven gun control bills that were sent to him by lawmakers, including legislation to expand restraining orders for gun violence and a bill allowing individuals to purchase one gun per month.

While there were no major changes in the privacy realm this year, multiple proposals to regulate drones did make their way through the Legislature. Several of those bills were sent to Governor Brown, including AB 2724 (Gatto), which would require operators of drones to procure liability insurance and require drones with GPS capabilities to be “geofenced” to avoid flying over prohibited areas. SB 807 (Gaines) is also on its way to the Governor and would give immunity from civil liability to first responders who damage or destroy drones while responding to emergencies. Brown vetoed several drones bills that landed on his desk last year, so the fates of these bills are unclear.

The customary, late-session “gut and amends” surfaced this year, including bills to appropriate cap and trade revenues and to heighten public utility safety procedures, both of which are on their way to the Governor. Other “gut and amends” were less successful, including a bill to give the Director of the Department of Consumer Affairs (DCA) more authority over the decisions of the various boards the DCA oversees, and a bill to require 15 percent of all new car sales in California to be zero-emission vehicles by 2018. Regardless of these outcomes, “gut and amends” could be a thing of the past if voters approve Prop. 54 in November. Written by Charles Munger and former Assemblyman Sam Blakeslee, Prop. 54 requires bills to be in print, online and available to the public at least 72 hours before being voted upon.

Now that the 2015-16 session is adjourned, legislators have returned to their districts and will shift their focus to the November 8th General Election. Several incumbent Republicans in contested seats are working hard to remain in office, while Democrats fight to regain their supermajorities in one or both houses. Because of the changes made to term limits in 2010, legislators can serve the totality of their 12-year terms in one house. The remainder of the members who are subject to the old, 6-year term limits are termed-out this year, so a good-sized freshman class will still be sworn in for the 2017-18 session. After 2016, there will be less turnover within the Legislature in election years.

The Governor has until September 30th to sign or veto all remaining legislation, after which we will update you on his actions. The Legislature returns to the Capitol to be sworn-in for the 2017-18 session on December 5th.