

## **NAWBO-CA January Newsletter**

### **Advocacy & Public Policy**

#### **New Laws Effective on January 1, 2021**

#### **Deadline Extended for First Round of Small Business COVID-19 Relief**

#### **Grant Program Applications**

#### **The President Signs \$2.3 trillion COVID-19 Relief Package**

#### **THE NAWBO Litmus Test: Endorsing Legislation**

#### **Next Steps for NAWBO-CA's Art of Advocacy**

The 2021-22 legislative session convened on Monday, December 7th when the Senate and Assembly returned to Sacramento to swear in the new and returning members for the 2021-22 legislative session, confirm committee chairs and membership, and begin introducing bills. The Senate conducted its business in the Capitol on the Senate Floor and the Assembly held its ceremony at the Golden 1 Center Arena a few blocks from the Capitol.

The President pro Tempore of the Senate Toni Atkins was sworn-in as the leader of the upper house and Assembly Member Anthony Rendon was confirmed as the lower house's Speaker. Both leaders stated to their members that the priorities for the year would be to address the ongoing issues the state is facing with COVID-19, wildfire mitigation, homelessness, small business stimulus and jobs creation for workers.

Both houses were planning to return to the Capitol on Monday, January 4<sup>th</sup> when the 2021-22 session planned to convene for the year, but postponed the opening day of session to January 11<sup>th</sup>. The delay is due to the recent surge of COVID-19 cases in the state. Leadership in both houses have indicated that the members would likely be physically present in the Capitol, but that staff would continue to work remotely with one staffer present in the Capitol. Currently, California remains under the Governor's Shelter in Place Executive Order until at least the end of January. It is also possible that Senate and Assembly staff will continue to work remotely and may not be returning to the Capitol until the end of August (after summer recess).

The legislature's tentative calendar indicates that session will convene in the Capitol from January 11<sup>th</sup> through September 10<sup>th</sup> with a summer recess from July 16<sup>th</sup> through August 16<sup>th</sup> for the first year of the biennial session. The deadline for bill introduction is February 19<sup>th</sup>, although bills can be amended through the beginning of August. In a typical legislative year, members spend 8 or 9 months in the building. However, in 2020, the Senate and Assembly members spent less than 3 months in the Capitol. This left minimal time for policy committees to hold enough hearings to take up the 2,000 or so bills that were introduced in 2020.

As of December 7th, over 200 bills have been introduced and according to several committee consultants in the Senate and Assembly, we can expect to see a record-setting number of bills as members re-introduce their legislation with the anticipation that there will be 8 full months of activity.

Despite the abbreviated 2020 session with limited hearings, the Senate and Assembly managed to pass a total of 513 bills. Of the 513 bills sent to the Governor, he signed 457 and vetoed 56. It is important to note that in a non-pandemic year, the amount of bills sent to the Governor would have been nearly four times the number of bills he received during the 2020 pandemic year. Therefore, we can expect a very active year in 2021.

## **New Law Effective Now**

**Cal/OSHA Emergency COViD-19 Prevention Regulations** - Cal/OSHA has issued its Emergency COVID-19 Prevention Regulations, effective November 19, 2020 (Immediately). Employers Must Establish and Implement a Written COVID-19 Prevention Plan/Program. The regulations are similar to California's IIPP and the two Programs can be integrated. The notification and reporting requirements are also very similar to the mandates in AB 685. The regulations are summarized below:

- Effective Immediately, Employers Must Provide a COVID-19 Prevention Plan to include the following:
- System for communicating information to employees about COVID-19 Prevention Procedures, testing, symptoms and illnesses, including a system for employees to report exposures without fear of retaliation.
- Identification and evaluation of hazards – screening employees for symptoms, identifying workplace conditions and practices that could result in potential exposure.
- Investigating and responding to cases in the workplace – responding immediately to potential exposures by following steps to determine who may have been exposed, providing notice within 1 business day about potential exposures, and offering testing to workers who may have been exposed.
- Correcting COVID-19 hazards – including unsafe conditions, work practices, and providing effective training and instruction.
- Physical Distancing – implementing procedures to ensure workers stay at least 6 feet apart from other people.
- Face Coverings must be provided and worn at all times while at work
- Adopting site-specific strategies such as changes to the workplace and work schedules and providing PPE to reduce exposure to the virus.
- Positive COVID-19 case and illness recording requirements and making the COVID-19 Prevention Plan accessible to employees and employee representatives.
- Removal of COVID-19 exposed workers and COVID-19 positive workers from the workplace with measures to protect pay and benefits
- Criteria for employees to return to work after recovering from COVID-19, along with a long-term RTW plan.
- Requirements for testing and notifying public health departments of workplace outbreaks (3 or more cases in a workplace in a 14-day period) and major outbreaks (20 or more cases within a 30-day period).
- Specific requirements for infection prevention in employer-provided housing and transportation to and from work.

- Note: Cal/OSHA Investigators are expected to focus on the key areas of these regulations in the event of an inspection of the worksite (which are never scheduled in advance). The new regs will likely be challenged in the courts and may increase litigation involving leave laws, and the enforcement of safety standards under PAGA.

### **New Law Effective on January 1, 2021**

**The CA Family Rights Act Expansion (SB 1383)** - California's Legislature expanded the laws under the CA Family Rights Act (CFRA) effective January 1, 2021. Below is a summary of the CFRA:

- CFRA is expanded to apply to all employers with 5 or more employees.
- There is no requirement that an eligible employee work at a location where the employer has 50 or more employees, as had been required under the federal Family Medical Leave Act (FMLA) and the CFRA.
- CFRA expands the definition of eligible employees to care for grandparents, grandchildren, and siblings, in addition to parents, children, spouses and registered domestic partners, who are covered under the FMLA and the CFRA.
- CFRA also provides coverage to key employees and provides 12 weeks of baby-bonding leave for both parents, even if they work for the same employer. Prior to the Jan 1, 2021 effective date, if both parents worked at the same company they were required to split the leave.
- Up to an additional 2 weeks may be added to provide for "Kin Care Leave" by using the all of the employee's sick leave.

Overlap of the FMLA and CFRA is burdensome on small and large employers.

Example: the FMLA and CFRA contain almost identical eligibility requirements and leave obligations, resulting in the 12 weeks of protected leave running concurrent.

- However, with the CFRA's eligibility expansions, the 12 weeks of leave is less likely to overlap. For instance, an employee could take 12 weeks of FMLA leave to care for a grandparent (not covered by the FMLA) and then an additional 12 weeks of FMLA leave to care for a parent (a reason covered by both the FMLA and CFRA).
- Small and large businesses should update their leave policies and make sure their employees are trained and familiar with the new CFRA rules.

### **New Law Effective March 31, 2021**

**Pay Data Reporting (SB 973)** – The Governor signed legislation that adds technical reporting requirements to the Employer's Pay Data Report and becomes effective on March 31, 2021. The revisions to the Pay Data Reporting requirements were made in an effort to aid targeted enforcement of several labor laws – specifically attempting to identify wage rates that appear to be discriminatory on the basis of gender or race. The new requirements include the following:

- Private employers with 100 or more employees and who are required to file an annual Employer Information Report under federal law, must submit a "Pay Data Report" to the CA Department of Fair Employment and Housing.
- Report must identify the number of employees by race, ethnicity, and sex, whose annual earnings fall within each of the pay bands used by the USBLS' Occupational Employment Statistics survey for each of the following job categories: Executive or

Senior level officials and managers; first or mid-level officials and managers; professionals; technicians; sales workers; admin support workers; craft workers; operatives; laborers and helpers; and service workers.

- Requires a snapshot by selecting a single pay period of their choosing between Oct 1 and Dec 31 of the calendar year preceding March 31, that counts the individuals in each of the above categories, separated by race, ethnicity and sex.
- Total earnings and hours are calculated and provided on the Form W-2 for each employee for the entire year.
- The CDFEH is developing a form that will be formatted for use by the department to search and sort the info using their software.

### **Deadline Extended for First Round of Small Business COVID-19 Relief Grant Program Applications**

California's Office of the Small Business Advocate (CalOSBA), part of the Governor's Office of Business and Economic Development (GO-Biz), announced that the deadline for the **first round of applications** for the Small Business COVID-19 Relief Grant Program will be extended from the **January 8<sup>th</sup> deadline to January 13, 2021 at 11:59 p.m.** The program, which officially opened December 30, received thousands of completed applications. However, it became apparent that some businesses may have had trouble accessing the application. Adjustments to the program's website have been made and the application period has been extended to ensure that all interested applicants have the opportunity to apply.

This grant program is not first come, first served, nor a rolling approval process. All applications will be reviewed following the now extended application deadline and is not on a first come, first served basis. The funds will be disbursed as originally planned to avoid any possible delay to small business owners receiving their grants.

The State's selected intermediary, Lendistry, a Community Development Financial Institution, is working with other mission-based lenders and small business advisors and technical assistance providers to help small businesses with the application process in multiple languages and formats. Many of the State-supported small business centers, which prioritize the expansion of technical assistance to underserved business groups, are also available to help. For more information on grant requirements and eligibility, as well as to find a local partner, please visit [careliefgrant.com](http://careliefgrant.com).

### **The President Signs \$2.3 trillion COVID-19 Relief Package**

The President recently signed a \$2.3 trillion package, despite his threats of not signing due to the amount for personal direct payments. The signing came after millions of Americans ran out of unemployment benefits. By signing the package now, we have avoided a government shutdown.

NAWBO National has provided us with their list of advocacy wins:

### **NAWBO Coronavirus Relief Advocacy Wins**

In the wake of the COVID-19 crisis, NAWBO developed an Advocacy agenda that embodied the ever-present need to create both the avenue and environment to build sustainable businesses. After reviewing the most recent COVID-19 Relief Package, we are pleased to report some big wins for America's women business owners.

Outreach to Women and Minorities

The law maps out a targeted approach to help women and minorities through:

1) \$25 million for the MBDA's Minority Business Development Centers program to help minority business enterprises (MBEs) respond to COVID-19 and identify and access local, State, or Federal government assistance.

2) Approximately \$20 Billion in targeted funding for eligible entities located in low-income communities through the EIDL Advance program

3) Set-asides within the Paycheck Protection Program including:

For lenders:

\$15 billion set-aside for loans issued by mission-lenders, including community development financial institutions (CDFIs), minority-depository institutions (MDIs), and SBA 504 and Microlenders

\$15 billion set-aside for certain smaller depository institutions, such as credit unions and farm credit institutions

For borrowers:

\$35 billion for borrowers who were unable to apply for an initial PPP loan, \$15 billion is for smaller borrowers with up to 10 employees or loans of up to \$250,000 in low-income areas. \$25 billion for second PPP loans for smaller borrowers with up to 10 employees or loans of up to \$250,000 in low-income areas.

*Eligible small businesses and nonprofits seeking initial PPP and second draw loans should contact an eligible PPP lender. A list of approved lenders is available on [SBA's website](#).*

### **Fix Tax Concerns with Forgiven PPP Loans and EIDL Advances**

The law clarifies numerous provisions, including:

- Removes PPP borrowers' requirement to deduct the amount of their EIDL advance from their PPP forgiveness amount.
- Gross income does not include any amount that would otherwise arise from the forgiveness of a Paycheck Protection Program (PPP) loan
- Gross income does not include forgiveness of certain loans, emergency EIDL grants, and certain loan repayment assistance.
- Deductions are allowed for otherwise deductible expenses paid with the proceeds of a PPP loan that is forgiven. The tax basis and other attributes of the borrower's assets will not be reduced due to loan forgiveness.

### **Second Round of PPP**

The law includes a second PPP loan of up to \$2 million for smaller, harder hit businesses starting January 1, 2021. Businesses must:

- Employ no more than 300 people
- Demonstrate a loss of 25% gross receipts in any quarter in 2020 when compared to the same quarter in 2019, and
- Use first PPP in full before the second loan.

### **Expansion of Eligible Expenses for PPP**

The law makes the following expenses allowable and forgivable uses for Paycheck Protection Program funds:

- Operations expenditures such as software, cloud computing, and other human resources and accounting needs
- Property damage costs due to public disturbances that are not covered by insurance
- Supplier costs such as expenditures to a supplier according to a contract, purchase order, or order for goods in effect before taking out the loan that was essential to the recipient's operations at the time at which the expenditure was made
- Supplier costs of perishable goods can be made before or during the life of the loan
- Worker protection expenditure. Personal protective equipment and adaptive investments to help a loan recipient comply with federal health and safety guidelines or any equivalent State and local guidance related to COVID-19 during the period between March 1, 2020, and the end of the national emergency declaration.

### **Simplified Application Process**

The law creates a simplified application process for loans under \$150,000. SBA has 24 days to create the document.

### **Inclusion of 501(c)'s into the Paycheck Protection Program**

The law expands eligibility to receive a Paycheck Protection Program loan to include 501(c)(6) organizations if:

- The organization does not receive more than 15 percent of receipts from lobbying
- The lobbying activities do not comprise more than 15 percent of activities
- The cost of lobbying activities of the organization did not exceed \$1,000,000 during the most recent tax year that ended before February 15, 2020, and
- The organization has 300 or fewer employees.

### **Affordable, Reliable Broadband**

- Establishes a temporary Emergency Broadband Benefit program to help qualifying low-income individuals and families to get connected or remain connected to internet access for the duration of the public health emergency.
- Directs the Federal Communications Commission to collect more data and develop a broadband map depicting the availability of broadband services throughout the country. The map will be used to target federal broadband resources to areas lacking service to ensure all Americans are connected.

### **Bipartisan Oversight**

- Requires the SBA to comply with GAO requests no later than 15 days
- Requires the SBA to submit a detailed justification to Senate and House Small Business Committees if they cannot comply with a GAO request
- Requires the Secretary of the Treasury and SBA Administrator to testify within 120 days of enactment and not less than twice per year for the next two years to the Senate and House Small Business Committees.

### **THE NAWBO LITMUS TEST: ENDORSING LEGISLATION**

As leaders in our NAWBO-CA Chapter, we should keep in mind that an endorsement of legislation by NAWBO National is a statement that women business owners across America support the efforts of the lawmakers. NAWBO does not support legislation

lightly. Before attaching our name, the legislation is thoroughly vetted to insure it aligns with our advocacy mission. An endorsement of legislation by a NAWBO chapter makes a similar statement and reflects on the organization as a whole. Chapters considering endorsing legislation are required to follow this same vetting process, which includes:

- 1) Bipartisanship Test: To receive support from NAWBO, a piece of legislation must have support from both Democrats and Republicans, which means members of both parties serve as sponsors and/or original co-sponsors.
- 2) Coalition Building: We look to be inclusive and build coalitions from within the business community around an issue or idea—the more individuals and organizations speaking positively about a solution, the better.
- 3) Data and Expertise Driven Initiatives: The legislation reflects the interests of our members as shown in our survey results and/or other scholarly data.
- 4) Business Advancement: The legislation should help advance the business economy and align with our national NAWBO advocacy agenda. Most importantly, the legislation must tie directly to women and business. NAWBO does not support women's issues which are not directly related to our mission.

### **The Art of Advocacy Update**

Join us to expand opportunities to become actively involved in the public policy process, increase knowledge and awareness about advocacy issues in this educational training series. This series will include advocacy conversation, roundtables and discussion to empower members with knowledge in the following subject areas:

- California legislative structure and policy cycle
- Legislative bill process
- The role and impact of state government
- Best practices in advocacy (local, state, national)
- Legislative outreach

Additional event details will be forthcoming as the planning process continues. Please submit your ideas and suggestions to the NAWBO-CA Advocacy and Public Policy Director, Robin Allen.

### **JOIN THE PUBLIC POLICY COMMITTEE**

We encourage anyone interested in advocacy to join the Public Policy Committee. It's open to all members and we meet on the 4<sup>th</sup> Friday of the month from 8:00 – 9:00 a.m. If you're interested, email NAWBO-CA's Advocacy and Public Policy Director Robin Allen at <mailto:robindharris1@hotmail.com> - Please direct your questions or inquiries to Robin or NAWBO-CA's lobbyist, at <mailto:LoriKammerer@gmail.com>. The bigger the team, the greater the outcomes!