SWCLC
Southwest California Legislative Council

MEETING AGENDA
Monday, June 22, 2015
Mt. San Jacinto College Campus, Room 805

Presiding: Alex Braicovich, Chair

2015 Strategic Initiatives
Budget & Tax Reform / Job Creation and Retention / Healthcare / Infrastructure & The Environment

Call to Order, Roll Call & Introductions: 12:00 p.m.

Chair Report

Agenda Items

1. **Approval of May 2015 Meeting Minutes (To follow) Action**
2. **Legislative Report #6 Action**
    1. SB 248 (Pavley) Oil and Gas
    2. SB 226 (Pavley) Sustainable Groundwater Management Act: Groundwater Rights
    3. AB 1390 (Alejo) Groundwater Adjudication
    4. AB 645 (Williams) Electricity: California renewables portfolio standard
    5. AB 1266 (Gonzalez) Electrical and Gas corporations
    6. AB 883 (Low) Employment: Public employee status
    7. SB 358 (Jackson) Conditions of employment: Gender wage differential
    8. AB 339 (Gordon) Health care coverage: outpatient prescription drugs
3. **Guest speaker: Jennings Immel, U.S. Chamber of Commerce, Western Region Manager**
4. **Legislator, Staff and Stakeholder Updates Information**

    Federal: Senators Feinstein & Boxer. Representatives Calvert & Hunter
    State: Governor Brown, Senators Stone & Morrell, Assembly Members Melendez, Waldron, Jones & Medina
    Local: County, Cities, Utilities, EDC, Healthcare, League of Cities
5. **Chamber & Council Member Announcements Information**

Adjourn – Next meeting July 27, 2015.

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Southwest Healthcare Systems
Wal-Mart
EDC of Southwest California
CR&R Waste Services
The Murrieta Temecula Group
Temecula Valley Chamber of Commerce
Murrieta Chamber of Commerce
Lake Elsinore Valley Chamber of Commerce
Wildomar Chamber of Commerce
Menifee Valley Chamber of Commerce
Perris Valley Chamber of Commerce

Legislative Item #1	**Action**

SB 248 (Pavley) Oil and Gas

Recommended action: OPPOSE
Presentation: Gene Wunderlich

Description:

Pro: This bill requires the Division of Oil, Gas, and Geothermal Resources in the Department of Conservation to update its regulations, develop a data management system, and enhance required reporting.

Con: The bill imposes Unnecessary Burdens on In-State Energy Development. The bill imposes new requirements related to the Underground Injection Control program that will cause delays in energy production, add another unnecessary layer of bureaucracy, and will institute requirements that are duplicative of state law.

Background:

As of 2013, California was the third ranked oil producing state by volume and also a significant producer of natural gas. It is a multi-billion dollar industry in the state. There are approximately 90,000 active oil and gas wells in the state. These wells are primarily oil and gas production wells, injection wells used to enhance oil recovery by a variety of methods, oil field wastewater disposal injection wells and gas storage wells, among others. About half of the state's active oil and gas wells are injection wells of which about 1,500 are waste disposal wells. The remaining injection wells (roughly 40,000) are different types of wells to enhance oil recovery. While percentages vary from year-to-year, roughly 60% of the state's oil production in recent years has depended upon enhanced oil recovery operations using injection wells (for contrast, recent data suggest hydraulic fracturing, and other forms of well stimulation treatments, account for 25% of the state's oil production).

Summary:

Existing law:
1) Establishes the Division of Oil, Gas, and Geothermal Resources (division) in the Department of Conservation as the state's oil and gas regulator.
2) Requires the division to regulate the drilling, operation, maintenance, and abandonment of wells and the operation, maintenance, and removal or abandonment of tanks and facilities used in oil and gas production.
3) Allows the division to apply to the US Environmental Protection Agency (US EPA) to receive "primacy" to operate the Class II Underground Injection Control (UIC) program for oil and gas injection wells at the state level. The US EPA granted primacy and delegated authority to the division to operate the UIC program in 1983.
4) Requires the state's oil and gas supervisor to produce a public annual report containing information about the state's oil and gas production and other related material, as specified.
5) Requires an owner or operator of a well to keep and at specified times file with the division, a careful and accurate log, core record, and history of the drilling of the well containing specified information.
6) Requires monthly reporting by an owner or operator of a well to the division of certain oil and gas production, and water source, production, use and disposition information.

This bill:

1) Requires the division to review and update its regulations, data management practices and enhance required reporting:
   a) Update injection well regulations, including the development of "best management practices" for injection wells through a public process with independent expert and stakeholder input,
   b) Require injection well regulations be specific to each kind of injection well and ensure formation, wellbore and well integrity, including "full and complete characterization and reporting of all operations, with appropriate monitoring,"
   c) Require that information regarding the division's inspection program, such as frequency, be publicly available, and that inspection results, as specified, be included in the supervisor's annual report,
   d) Require the development and implementation of a new data management system to improve data handling and ensure ready public access to the division's data and actions, as specified, and
   e) Require enhanced quarterly reporting of waste disposal well information, as specified.
2) Provides for existing injection wells as of a certain date to be brought into compliance with the new regulations by another date (years for the dates are blank).
3) Requires that injection wells subject to the division's April 2015 emergency regulations (described below) and currently non-compliant with existing regulations meet the compliance schedule in the emergency regulations or cease injection operations.

4) Requires complete reporting of all activities conducted on an oil and gas well, including injected fluid composition, as specified,
5) Requires the monthly reporting of the chemical composition of produced water, and
6) Adds an ongoing requirement that the division review its regulations and other requirements at least every 10 years and update any, if needed, as specified, among other provisions.

Fiscal effects:

According to the Senate Appropriations Committee:

- Ongoing cost pressures at least in the hundreds of thousands of dollars to the Oil, Gas, and Geothermal Fund (special) to the division for additional inspection activities.
- Ongoing costs no more than the low hundreds of thousands of dollars annually to the Oil, Gas, and Geothermal Fund (special) for revisions and updates to the regulations, field rules, notices, and other requirements at least every 10 years.
- Unknown potential losses of fee revenues to the Oil, Gas, and Geothermal Fund (special) for the shutting-in of noncompliant wells.

Arguments in Support:

According to the author, "in the last few years, the division and its operations have come under increasing scrutiny. About five years ago, the division starting asking the Legislature for – and receiving – increased funding and personnel to revamp its injection well program. The then-supervisor released a draft plan to address deficiencies in that program. Many of these problems were highlighted in the 2011 EPA audit of the injection well program. It's now 4 years later, and I have a few more draft plans released by the division. It's time for legislative action to ensure there is a final plan that gets fully implemented and the division's outdated regulations are revised to reflect advances in oil and gas field technology." "The state is in the fourth year of an extreme drought.

We recently found out that over 2,500 – and now that total has been increased by 3,600 – injection wells are injecting oil and gas-related wastewater and other fluids into groundwater that, in many instances, others are using for drinking and irrigation water. The division knew about this issue for years, and did little to resolve it. The division has only shut down a handful of wells while it investigates, putting much needed groundwater at risk. The division does not know all of the materials and chemicals put into those wells. How can the division fulfill its regulatory mission to protect the state's groundwater, natural resources and public health and safety, if it doesn't collect information about many oil and gas field operations and depends on regulations it acknowledges are out-of-date?" "SB 248 codifies the recent schedule that the US EPA, the Water Boards and the division agreed to that is the basis for the division's emergency regulations.

No wells in compliance with regulations will be shut down." The author continues, "SB 248 seeks to spur reform at the division and specifically within its oil and gas injection well program in order to provide regulatory accountability and public transparency. The division needs to be held to its promises. My bill puts a statutory framework in place to require the division to regularly review its practices every ten years. If no changes need to be made, then none are required."

Arguments in Opposition:

According to the Western States Petroleum Association, "SB 248 calls for a number of new or additional responsibilities by the division that are at best redundant and would add extensive administrative interruptions and burdens that will detract from the reforms the division is currently tasked with and implementing." "The proposed modifications to the UIC program would compromise California's oil production without providing any additional environmental and groundwater protections beyond those provided by the enhancements to the UIC program proposed to US EPA by the Water Boards and the division. Newly proposed Article 2.5 relating to injection wells and the UIC program is particularly unnecessary and will promote more, not less, regulatory confusion and inaction." "The division has provided US EPA a comprehensive "work plan" outlining new regulations and program reforms it is in the process of implementing.

The division's initiatives have been developed in response to audits conducted by other regulatory agencies and questions raised by the legislature. The importance of allowing the division to complete implementation of this work plan to ensure regulatory stability and consistency is achieved cannot be understated. SB 248 essentially derails the division's focus from these critical efforts by forcing the agency to promulgate yet more regulations that are redundant to existing activities, hinders progress and promotes more regulatory instability." The Western States Petroleum Association also notes that "SB 248 would now require additional data which will undoubtedly require additional PYs and data management capacity."

SUPPORT: (Verified 6/1/15)

Asian Pacific Environmental Network
Association of California Water Agencies
Association of Irritated Residents
California League of Conservation Voters

Center for Environmental Health
Center for Race, Poverty and the Environment
Citizens for Responsible Oil and Gas Clean Water Action
Coastal Environmental Rights Foundation
Earthworks Environment
California Environmental Action Center of West Marin
Environmental Defense Center
Environmental Working Group
Foothill Conservancy
Fresnans Against Fracking
Committee on Legislation of California
League of Women Voters
Los Padres ForestWatch
Mainstreet Moms
Medicine Lake Citizens for Quality Environment, Inc
Natural Resources Defense Council
Planning and Conservation League
San Diego350
Save the Sespe
Sierra Club California
Southern Monterey County Rural Coalition
The Wildlands Conservancy
Wholly H2O

OPPOSITION: (Verified 5/29/15)

African American Farmers of California
Anne DeMartini, Trustee, Yosemite Community College District
Associated Builders & Contractors of California
Buddy Mendes, Supervisor, Fresno County Board of Supervisors California Asian pacific Chamber of Commerce
California Chamber of Commerce
California Cotton Ginners Association
California Cotton Growers Association
California Independent Petroleum Association
California Women for Agriculture
Camarillo Chamber of Commerce
Cerritos Regional Chamber of Commerce
Chambers of Commerce Alliance of Ventura & Santa Barbara Clint Olivier, Councilmember, City of Fresno
Coastal Energy Alliance
Craig Pedersen, Supervisor, Kings County Board of Supervisors
Dick Monteith, Supervisor, Stanislaus County Board of Supervisors
Doug Verboon, Supervisor, Kings County Board of Supervisors El Monte/South El Monte Chamber of Commerce
Frank Hotchkiss, Councilmember, City of Santa Barbara
Fresno Area Hispanic Foundation/Downtown Business Hub
Fresno County Farm Bureau
Greater Bakersfield Chamber of Commerce
Hayward Chamber of Commerce
Humboldt Taxpayer's League
Huntington Beach Chamber of Commerce
Independent Oil Producers' Agency
Inland Empire Economic Partnership
International Faith Based Coalition
Jim DeMartini, Supervisor, Stanislaus County Board of Supervisors
José Flores, Councilmember, City of Clovis
Justin Mendes, Councilmember, City of Hanford
Kern County Black Chamber of Commerce
Kern County Firefighters IAFF Local 1301
Kern County Hispanic Chamber of Commerce
Kern County Taxpayers Association
Kern Economic Development Corporation
Kings County Farm Bureau
Latino Community Roundtable of Stanislaus County
Lee Brand, Councilmember, City of Fresno
Louie Arrollo, former Mayor, City of Ceres
Luis Chavez, Trustee, Fresno Unified School District
Mike Spence, Councilmember, City of West Covina
Mike Welsh, School Board Member, Ceres Unified School District
Monterey County Farm Bureau
National Association of Royalty Owners
National Association of Royalty Owners – California
National Federation of Independent Business
National Hmong American Farmers
Nickel Family, LLC
Nisei Farmers League
Oxnard Chamber of Commerce
Pete Vander Poel, Supervisor, Tulare County Board of Supervisors
Peter Adam, Supervisor, Santa Barbara County Board of Supervisors
Peter Foy, Supervisor, Ventura County Board of Supervisors
Porterville Chamber of Commerce
Richard Valle, Supervisor, Kings County Board of Supervisors
Rick Farinelli, Supervisor, Madera County Board of Supervisors
Robert Silva, Mayor, City of Mendota
Rudy Mendoza, Mayor, City of Woodlake
Russ Curry, Mayor, City of Hanford
Sacramento Asian Pacific Chamber of Commerce
Sal Quintero, Councilmember, City of Fresno
San Diego East County Chamber of Commerce
San Diego Tax Fighters
San Joaquin Farm Bureau
Santa Barbara County Taxpayers Association
Santa Barbara Technology and Industry Association
Santa Fe Springs Chamber of Commerce
Santa Maria Valley Chamber of Commerce & Visitor and Convention Bureau
Steve Brandau, Councilmember, City of Fresno
Steve Nascimento, Councilmember, City of Turlock
Steve Worthley, Supervisor, Tulare County Board of Supervisors
Sylvia V. Chávez, Mayor, City of Huron
Taft Chamber of Commerce and Visitors Bureau
Terry Withrow, Supervisor, Stanislaus County Board of Supervisors
The Chamber of Commerce of the Santa Barbara Region
Tulare County Farm Bureau
Valley Industry & Commerce Association
Western Agricultural Processors Association
Western States Petroleum Association
Western United Dairymen

Status: Active - Assembly committee process

Senate floor votes: Stone - NO, Morrell - NO, Roth - YES

Legislative Item #2 **Action**

SB 226 (Pavley) Sustainable Groundwater Management Act: Groundwater Rights

Recommended action: OPPOSE
Presentation: Gene Wunderlich

Description:

Pro: This bill establishes special procedures for courts use in determining rights to groundwater under the Sustainable Groundwater Management Act (SGMA). This bill specifies procedures for, among other things, making determinations of rights to groundwater under SGMA, for serving notice to unknown parties, for providing initial disclosure of discoverable information, including information pertaining to expert witnesses, and for intervention by the Department of Water Resources and the Department of Fish and Wildlife.

Con: This bill provides for expedited adjudication and prematurely makes changes to the recently passed Sustainable Groundwater Management Act before it is completely implemented. It clouds the issue of expedited adjudication.

Background

Among other things, the SGMA requires that each high- and medium-priority groundwater basins be managed pursuant to a groundwater sustainability plan, with the goal of achieving sustainability within 20 years. Many basins will be able to achieve sustainability through more active and deliberate management.

In some basins, however, to avoid undesirable results, some groundwater uses may need to be reduced or otherwise changed. SGMA states in several places that it does not determine or change groundwater rights. To define, reduce, or otherwise change groundwater rights one must use the common law process of adjudication. An adjudication of groundwater rights is initiated by a lawsuit.

The impetus for such a suit is usually some alleged harm purportedly caused by excessive groundwater depletion. These harms could include chronic lowering of groundwater levels; subsidence; misallocation of storage; water quality; seawater intrusion; well interference; shortages; or water rights disputes. In basins where a lawsuit is brought to adjudicate the basin, the groundwater rights of all the overliers and appropriators are determined by the court. The court also decides:

1) who the extractors are;
2) how much groundwater those well owners can extract; and
3) who the Watermaster will be to ensure that the basin is managed in accordance with the court's decree.

The Watermaster must report periodically to the court. Given the different kinds of groundwater rights and the relationships between them, coming to a determination is a complex task, often taking well over a decade of judicial activity – the Antelope Valley adjudication has taken 15 years and counting.

It will be difficult, if not impossible, for some basins to comply with the requirements of SGMA if they have to wait 15+ years for a final determination of rights pursuant to existing law. On November 20, 2014, the Senate Natural Resources and Water Committee held an informational hearing, titled "Resolving Disputes Regarding Groundwater Rights: Why Does It Take So Long and What Might Be Done to Accelerate the Process?" At that hearing, witnesses identified a number of items that cause unnecessary delay. These included issues of basin boundaries, notice and service, discovery, and expert testimony.

Summary:

Last session the Legislature enacted the SGMA (SB 1168, Pavley, **OPPOSED by the SWCLC**). Among other things, SGMA requires that each high- and medium-priority groundwater basins be managed pursuant to a groundwater sustainability plan, with the goal of achieving sustainability within 20 years.

This bill:

Adds a new Chapter 12 to SGMA titled DETERMINATION OF RIGHTS TO GROUNDWATER.

Specifically:
a) Finds and declares that it establishes a timely and comprehensive method for determining rights to groundwater.

b) Provides that a court shall use the Code of Civil Procedure for determining rights to groundwater, except as provided by the special procedures established in the bill.
c) Requires the process for determining rights to groundwater to be available to any court of competent jurisdiction.
d) Deems an action requesting a court to determine water rights under this chapter to be provisionally complex within the meaning provided in the California Rules of Court.
e) Directs a court, in making its determination of rights to groundwater, to avoid undesirable results as defined in SGMA.
f) Provides that it applies to Indian tribes and the federal government to the extent authorized by federal and tribal law.
g) Requires the boundaries of a basin to be as identified in Bulletin 118, unless other basin boundaries are established pursuant to SGMA.
h) Authorizes the Department of Water Resources and the Department of Fish and Wildlife to intervene in an action or proceeding if they claim an interest relating to the action or proceeding.
i) Specifies service and notice procedures.
j) Requires a party to provide specified initial disclosures to the other parties, including, among other disclosures, information relating to expert witnesses

Arguments in Support:

According to the author, "Under current law, groundwater rights adjudications take an extraordinarily long time and are extraordinarily expensive. As we were working last year to enact the Sustainable Groundwater Management Act (SGMA) two things became clear: 1) there will almost certainly be more such adjudications, and 2) it will be difficult, if not impossible, for some basins to comply with the requirements of SGMA if we don't speed up the adjudication process."

"SB 226 tackles head on the various time sinks witnesses identified at this committee's hearing last November on groundwater adjudication. SB 226 addresses these issues as follows: Basin Boundaries – boundaries shall be as identified in DWR's Bulletin 118, unless modified as provided in SGMA. Notice & Service – notice to known parties is as provided in the Code of Civil Procedures (CCP). Unknown parties would be served by publication. Discovery – follows the Federal procedures, which require disclosure of specific items without awaiting a discovery request. Expert Witness – follows the Federal procedures, which require an expert witness to provide a written report on opinions the witness will express and the basis and reasons for them."

"With these changes, SB 226 will reduce needless delays while still protecting due process rights."

Arguments in Opposition:

The California Farm Bureau Federation writes, "When Governor Brown signed the Sustainable Groundwater Management Act (SGMA) bill package last year, interest in improving the groundwater adjudication process was expressed by the Administration and authors of the bill package. The Farm Bureau has worked with many others since the SGMA was signed into law and has introduced a comprehensive bill (AB 1390 – Alejo) to address the issues by adding a new chapter to the Code of Civil Procedure making improvements to the judicial proceedings of comprehensive adjudications of groundwater rights in a basin.

These changes will reduce the burden of groundwater adjudications on both the courts and claimants without altering the law of groundwater rights without disruption the Sustainable Groundwater Management Act planning process. While we appreciate [Senator Pavley's] interest in the issue of adjudication we respectfully prefer the approach offered in AB 1390." "SB 226 makes changes to the SGMA that already includes significant groundwater reforms which focuses on improving the sustainability and reliability of California's groundwater basins.

We believe that the SGMA should be given time to be implemented and that it is premature to make significant policy changes to the Act at this time."

Support (As of 5/19/15)

All Outdoors
American River Conservancy
American River Touring Association Inc.
American Whitewater California Canoe and Kayak
California Outdoors
California Sportfishing Protection Alliance
California Water Impact Network
Clean Water Action
Community Water Center
Delta Kayak Adventures
Foothill Conservancy
Friends of the Eel River Friends of the River
Friends of the San Francisco Estuary
Merced River Conservation Committee
North Coast Rivers Alliance
Northern California Council of the International Federation of Fly Fishers
Restore Hetch Hetchy
Restore the Delta
Rivers for Change
Rose Foundation for Communities and the Environment
Sacramento River Preservation Trust
Save the American River Association
Sierra Club California S
ierra Nevada Alliance
Smith River Alliance
South Yuba River Citizens League
Tuolumne River Trust
Winnemem Wintu Tribe

Opposition

African American Farmers of California
California Chamber of Commerce
California Citrus Mutual
California Cotton Ginners Association
California Cotton Growers Association
California Dairies Inc.
California Farm Bureau Federation
California Floral Council
California Fresh Fruit Association
California Tomato Growers Association
National Hmong American Farmers
Nisei Farmers League Western
Agricultural Processors Association
Western Plant Health Association

Status: Active - To Assembly

Senate floor votes: Stone - NO, Morrell - NO, Roth - YES

Legislative Item #3 **Action**

AB 1390 (Alejo) Groundwater Adjudication

Recommended action: SUPPORT
Presentation: Gene Wunderlich

Summary:

Groundwater Adjudication. Makes improvements to the judicial proceedings in a groundwater adjudication. Reduces the burdens of adjudications for courts and claimants without altering groundwater rights laws and without disrupting the new groundwater management planning process.

Background:

Groundwater is either a subterranean stream flowing through a known and definite channel or percolating groundwater. Groundwater that is a subterranean stream is subject to the same State Water Resources Control Board (SWRCB) water right permitting requirements as surface water. There is no statewide permitting requirement for percolating groundwater, which is the majority of groundwater in the state.

The Department of Water Resources (DWR) is required to prioritize groundwater basins based on multiple factors including, but not limited to, the level of population and irrigated acreage relying on the groundwater basin as a primary source of water and the current impacts on the groundwater basin from overdraft, subsidence, saline intrusion and other water quality degradation.

The groundwater basins identified in DWR's Groundwater Report, Bulletin 118, are required to be regularly and systematically monitored locally and the information is required to be readily and widely available. DWR is required to perform the groundwater elevation monitoring function if no local entity will do so, but then bars the county and other entities eligible to monitor that basin from receiving state water grants or loans..

Arguments in Support.

According to the author, this bill will address the time sinks that occur in current groundwater adjudications by clarifying and streamlining the processes that must be followed.

Particular challenges exist in groundwater adjudications including determination of venue, identification of basin boundaries, disqualification of judges, notice and service of parties, discovery and ability of the parties to reach settlement. This bill would reform procedural rules to improve the functioning of each of these areas by providing tools to the court and claimants to move more efficiently through the adjudication process, such as trial phasing, deadlines for disclosures of water usage and submission of written testimony and expert disclosures. All of these reforms will significantly reduce costs associated with the courts, claimants and local groundwater management entities.

The bill would also facilitate and encourage the early settlement of groundwater adjudications by providing tools and opportunities for courts, claimants, and local groundwater management entities to develop solutions in a more timely manner, further reducing costs on the courts, claimants and local entities.

A recent news article on the Antelope Valley groundwater adjudication highlights the challenges. The case is enormous and has been sitting in a trial court for 15 years. It involves a multitude of public agencies and landowners large and small who hold groundwater pumping rights including cities, farmers, the federal government, and a class of 85,000 property owners who have never pumped water. There are 9,404 docket entries in the case so far and more than 100 lawyers

involved. Another example is the Santa Maria groundwater basin in Santa Barbara and San Luis Obispo counties. That case involved thousands of parties, cost an estimated tens of millions of dollars, and after 15 years in the trial and appellate courts, it is still not completely resolved. This bill tries to address some of the delays in groundwater adjudications by creating some standardized forms, processes, and requirements. Importantly, it wrestles with the notice issue utilizing multiple approaches including that notice can be made on property tax bills. This bill tackles the groundwater history issue by requiring that parties disclose specifics regarding their preceding 10 years of groundwater use up front. This bill also encourages the providing of information in electronic form, sets out standards for the role of technical experts, and encourages settlement.

The author states that when Governor Brown signed SGMA last year he acknowledged the need to develop a streamlined groundwater adjudication process. The author adds that this bill is meant to address the time sinks that occur in current groundwater adjudications by clarifying the processes that must be followed. The author states that streamlining adjudications will ease the burden on the courts, provide the parties with the most efficient resolution possible and protect individual rights, all while appropriately integrating adjudication actions with SGMA.

Other supporters state that this bill will address particular challenges that exist in groundwater adjudications including determination of venue, identification of basin boundaries, disqualification of judges, notice and service of parties, discovery, and the ability of the parties to reach settlement. Supporters add this bill will do that without impacting due process or changing California water law.

Arguments in Opposition.

Opponents criticize this bill for not adequately protecting the interests of disadvantaged communities, failing to provide attorney's fees and costs for those with a significant financial hardship, failing to provide notices in multiple languages, and requiring notices to be sent with property tax statements, which are only sent twice per year and are sometimes sent to escrow companies that send the taxes, and not to the property-owning taxpayer.

Other stakeholders do not officially oppose this bill at this time but have raised concerns that this bill will impose new burdens on cities and counties, especially by requiring that the plaintiff name cities and counties as defendants whether the cities and counties have an interest in the adjudication or not.

Supporting:

Agricultural Council of California
Almond Hullers and Processors Association
Association of California Egg Farmers
California Association of Wheat Growers
California Bean Shippers Association
California Cattlemen's Association
California Chamber of Commerce
California Citrus Mutual
California Cotton Ginners Association
California Cotton Growers Association
California Dairies Inc.
California Farm Bureau Federation
California Fresh Fruit Association
California Grain and Feed Association
California Pear Growers Association
California Seed Association
California Tomato Growers Association
Pacific Egg and Poultry Association
Western Agricultural Processors Association
Western Growers Association

Opposition

Clean Water Action (unless amended)
Community Water Center (unless amended)
Sierra Club California (unless amended)

Status: Active - To Senate

Assembly Votes: **Yes:** Jones, Linder, Medina, Melendez, Waldron

Legislative Item #4	**Action**

AB 645 (Williams) Electricity: California renewables portfolio standard

Recommended action: OPPOSE
Presentation: Gene Wunderlich

Summary:

Pro: Establishes a Renewables Portfolio Standard (RPS) target of 50% by 2030, including interim targets of 38% by 2023 and 44% by 2026.

Con: Increases the cost of energy and threatens grid reliability by expanding the current renewable portfolio standard from 33% to 50%.

Background:

The California RPS program requires investor-owned utilities, local publicly owned utilities, and energy service providers to increase purchases of renewable energy to at least 33% of retail sales by December 31, 2020. The original RPS bill, SB 1078 (Sher), Chapter 516, Statutes of 2002, set a goal of 20% by 2017. SB 107 (Simitian), Chapter 464, Statutes of 2006, accelerated the deadline for 20% to 2010. SB2 X1 (Simitian), Chapter 1, Statutes of 2011-12 First Extraordinary Session, codified the current 33% by 2020 RPS target, and also established product content categories (or "buckets"), which place the highest value (Bucket 1) on renewable energy that is directly delivered into California because it has the greatest economic, environmental, and reliability benefits.

Governor's objectives for 2030 and beyond. In his January 5, 2015, Inaugural Address, Governor Brown announced the following three objectives to be accomplished within the next 15 years:

a) Increase the RPS from 33% to 50%,
b) Reduce petroleum use in transportation fuels by up to 50%, and
c) Double the efficiency of existing buildings and make heating fuels cleaner.

This bill addresses the Governor's first policy goal by increasing the RPS from 33% to 50% by 2030.

Work in Progress. Many outstanding policy and implementation issues remain and will need to be addressed prior to enacting any legislation to increase the RPS to 50% by 2030. These include:

1) Enabling the procurement and integration of the broad range of renewable resources necessary to assure balanced, reliable portfolios, and maximize environmental benefits,

2) Determining the manner in which electricity from small-scale and distributed renewable energy resources is counted toward the RPS to assure these resources are properly valued, but not double-counted, and

3) Reconciling the RPS with other programs that are part of the state's overall climate and energy goals, such as energy efficiency and electrification of the transportation sector.

Arguments in Support:

According to the author, California currently uses renewable resources for about 25% of its electricity use and is on a trajectory to use 33% by 2020. However, in order to meet long term climate change goals, we must derive 50% of the state's electricity from renewable resources by 2030.

"California is a leader in reducing greenhouse gases from electricity generation while maintaining an affordable and reliable electricity system. The Renewable Portfolio Standard has been a resounding success and a prime example of California's work on climate change and utilities are well on-track to achieving 33% renewable energy by 2020. The RPS has led to the development of new solar, wind, and geothermal power plants, as well as related manufacturing and services. These investments have created hundreds of thousands of new jobs, millions of new investment and tax dollars, and significant clean air and climate benefits. However, all the scenarios for achieving long-term climate change goals rely on further increasing zero-carbon energy resources and replacing fossil fuel as an energy source. Significantly boosting the requirement to procure renewable electricity is a key component of this strategy, and AB 645 does this by increasing the RPS to 50% by 2030."

Arguments in Oppositon:

A**B 645 (Williams)** will increase the cost for energy and threaten grid reliability by setting an arbitrary mandate to increase the Renewable Portfolio Standard (RPS) from 33% to 50%.

AB 645 will mandate that utilities procure a minimum of 50% of electricity products from eligible renewable energy resources by 2030. **AB 645** will simply increase the RPS without taking a look at the current program requirements and evaluating where changes may need to be made.

There is also the potential for grid instability given our current mix of renewable and **AB 645** does nothing to address this. **AB 645** does not give any consideration for regional coordination or provide any flexibility to procurement mandates.

Whenever a new mandate is put on the procurement of energy, there is a cost increase associated with that. While the price for renewables has fallen since the RPS was signed into law, there are still numerous subsidies in place helping to make those technologies more comparable in price to traditional electricity generation. California ratepayers already pay some of the highest per kilowatt hour electricity rates in the nation. **AB 645** will lead to increased costs for already high electricity rates.

Any increase in our current RPS needs to take into consideration the current needs of our grid as well as the cost to ratepayers

Support

California Hydropower Reform Coalition
California League of Conservation Voters
California Wind Energy Association
California Biomass Energy Alliance
Clean Power Campaign
Energy Source
Environmental Action Committee
West Marin Environment
California Environmental Defense Fund
Independent Energy Producers
Large Scale Solar Natural Resources Defense Counsel
NextGen
Climate Office of Ratepayer Advocates
Sierra Club
California State Building and Construction Trades Council
TURN
Union of Concerned Scientists
Vote Solar

Opposition

California Manufacturers and Technology Association
California Chamber of Commerce

Status: Active - To Senate for assignment

Assembly Vote: **Yes:** Medina
No: Jones, Linder, Melendez, Waldron

Legislative Item #5 **Action**

AB 1266 (Gonzalez) Electrical and Gas corporations

Recommended action: OPPOSE
Presentation: Gene Wunderlich

Summary:

Pro: Prohibits an electrical or gas corporation from recovering from ratepayers' expenses for excess compensation paid to an officer of the utility following a triggering event, unless approved by the California Public Utilities Commission (CPUC), as specified. Imposes Inappropriate Compensation Limits.

Con: Imposes inappropriate limits around executive compensation for energy utility officers thereby interfering with the ability to retain qualified executives.

Background:

In 2012, Southern California Edison (SCE) announced that it was closing the San Onofre Nuclear Generating Station (SONGS) in San Clemente following the discovery of a radioactive leak caused by a faulty steam generator. In 2014, SCE reached a settlement with the CPUC to allow it to collect $3.3 billion from ratepayers and $1.4 billion from shareholders to fund the cost of the closing SONGS. The settlement also gave ratepayers a share of the money recovered from litigation against Mitsubishi, the manufacturer of the faulty steam generator, as well as an equal share of any legal settlement with Mitsubishi. 3) Executive Compensation: According to the author, "executive compensation is never the subject of a standalone proceeding where the public can engage.

In addition, the CPUC has never conducted a proceeding to determine if the compensation for any individual is appropriate or justified, and never considers whether the utility's performance warrants any change in executive compensation. Not after the San Bruno disaster or the SONGS disaster, not even after SCE was fined $200 million for falsifying performance records and customer satisfaction surveys."

This bill prohibits an electrical or gas corporation from recovering expenses for excess compensation from ratepayers following a triggering event, unless the utility submits to the CPUC a Tier 3 advice letter, as specified, and the CPUC opens or expands the scope of a hearing to consider the costs to ratepayers of the triggering event. The CPUC would have to hold at least one publically noticed hearing to consider the cost to ratepayers of the trigger event, and issue a decision on whether and, if so, how much of each officers' compensation shall be recoverable from ratepayers.

Arguments in Support:

According to the Coalition of California Utility Employees, the sponsor of the bill, "there has been a flurry of revelations of late concerning excess compensation for public utility executives. They have come at a time when some utilities have shut down resources and asked the ratepayers to absorb much of the cost. The appropriate filing of an advice letter with the California Public Utilities Commission will provide transparency for the ratepayer and the oversight of the Investor Owned Utilities. Excess compensation, in any form, to officers of a public utility that has violated federal or state safety regulations is unconscionable."

Arguments in Opposition:

AB 1266 (Gonzalez), which would place an excessive and undue burden on California's gas and electrical utilities.

Placing artificial constraints on compensation harms the ability of employers to recruit and retain the best talent and leadership, which can diminish their competitiveness over time. Our economic system is built upon a free market, one that allows individuals to earn what the market will bear on their capital and labor. **AB 1266** jeopardizes the ability to hire and retain the most qualified executives by requiring an electrical or gas corporation to seek approval from the California Public Utilities Commission (CPUC) through a Tier 3 advice letter for any compensation paid to an officer that is over ten times the annual compensation of a journeyman lineman if the corporation has had a federal or state safety violation that would impact customers by $5 million or more.

AB 1266 raises several concerns. First, there is no demonstrated reason why the limit for excess compensation is defined as ten times the average lineman salary; the duties of an officer and a lineman are distinctly different and should have no bearing on each other, the ten times multiple is arbitrary. Second, the bill specifies that a utility may not pay any excess compensation following a triggering event until it has filed an advice letter with the CPUC and the CPUC has held one public hearing and issued approval. This could potentially require withholding pay from employees for a considerable length of time, going long past two weeks or one month. The bill would even apply to triggering events from previous years, yet it is unclear how this would be resolved—would it require the seizure of previously awarded pay? This creates a gravely concerning precedent of an individual's already negotiated and paid compensation being seized as the result of the actions of a corporation.

Beyond conflicting with state labor law, **AB 1266** is simply unnecessary. Utilities are already subject to the oversight of the CPUC, which ensures fair and just compensation for utility officers. **AB 1266** would create an unnecessary review that could result in the unlawful withholding of pay from utility employees.

Support

Coalition of California Utility Employees (Sponsor)
California State Association of Electrical Workers
The Utility Reform Network (TURN)

Opposition

California Chamber of Commerce

Status: Active - To Senate for assignment

Assembly votes: **Yes:** Medina
No: Jones. Linder, Melendez, Waldron

Legislative Item #6 **Action**

AB 883 (Low) Employment: Public employee status

Recommended action: OPPOSE
Presentation: Gene Wunderlich

Summary:

Pro: Enacts various provisions related to discrimination based on current or former public employee status.

Con: Increase of Frivolous Employment Litigation. Subjects employers to frivolous litigation and precludes them from inquiring into an employee's work history by precluding them from making any employment decision based upon the applicant's prior employment as a public employee.

Purpose of bill:

This bill:
1) Prohibits an employer, including a public employer, from doing the following:
    a) Publishing an advertisement or announcement for any job that includes a provision stating or indicating directly or indirectly that the applicant for employment must not be a current or former public employee.
    b) Communicating or disclosing that an applicant's status as a current or former public employee disqualifies an individual from eligibility for employment.
    c) Making an employment decision based on an applicant's current or former status as a public employee.
2) Prohibits a person who operates specified job posting Internet Web sites from including in advertisements or announcements a provision stating or indicating directly or indirectly that the applicant for employment must not be a current or former employee.
3) Provides that this bill shall not be construed to prohibit an employer or a person who operates an Internet Web site for posting jobs from:
    a) Publishing in print, on an Internet Web site, or in any other medium, an advertisement or announcement for any job that contains any provision setting forth qualifications for a job, including:
        i) Holding a current and valid professional or occupational license, certificate, registration, permit, or other credential.
        ii) Requiring a minimum level of education or training or professional, occupational, or field experience.
        iii) Stating that only individuals who are current employees of the employer will be considered for that job.
    b) Setting forth qualifications for any job, including:
        i) Holding a current and valid professional or occupational license, certificate, registration, permit, or other credential.
        ii) Requiring a minimum level of education or training or professional, occupational, or field experience.
        iii) Stating that only individuals who are current employees of the employer will be considered for that job.
    c) Obtaining information regarding an individual's current or former status as a public employee, including recent relevant experience.
    d) Having knowledge of a person's current or former status as a public employee.
    e) Otherwise making employment decisions pertaining to that individual.

Existing law:

Regulates the terms and conditions of employment and, in particular, contracts and applications for employment. Existing law prohibits private employers from requiring an applicant for employment to take a polygraph test as a condition of employment or continued employment. Existing law generally prohibits public and private employers from requiring an applicant to disclose an arrest or detention that did not result in a conviction, subject to various exceptions.

Existing federal and state law contain provisions that define unlawful discrimination and unlawful employment practices by employers and employment agencies. These provisions exist to protect both prospective and current employees against employment discrimination. The Fair Employment and Housing Act (FEHA), prohibits harassment and discrimination in employment because of, among other things, race, color, religion, sex, gender, sexual orientation, marital status, mental and physical disability, age and/or retaliation for protesting illegal discrimination related to one of these categories (Government Code §12940, 12945). In addition, current law generally prohibits public and private employers from requiring an applicant to disclose an arrest or detention that did not result in a conviction (Labor Code § 432.7).

In addition, AB 218 (Dickinson) which was signed into law in 2013 provided additional protections for job applicants by prohibiting a state or local agency from asking an applicant for employment to disclose information concerning their conviction history, until the agency has determined applicant meets the minimum employment qualifications for the position. These statutes seek to ensure a workplace free from discrimination as well as establish clear prohibitions of employment practices that would deprive or tend to deprive any individual of employment opportunities, limit such employment opportunities or otherwise adversely affect a person's status as an employee or as an applicant for employment.

Arguments in Support:

This bill is sponsored by the California Professional Firefighters, who argue that a new trend in employment practices has surfaced – one that requires an applicant for employment to not be a participant of a governmental retirement plan. Consequently, qualified job applicants are now being discriminated against and penalized when their work history shows that they currently hold or previously held a position in which they were classified as a public employee since only public employees are eligible to be members of a governmental retirement plan.

The sponsor argues that punishing a potential applicant due to his or her previous experience as a public employee is not only divisive; it is a true disservice to the employer that has posted the job advertisement. By discriminating against potential applicants in this way, an employer may be excluding an entire group of the most qualified applicants that could be considered for the position. For example, firefighters are highly-skilled and highly-trained first responders. CPF states that its members are also public employees. Many of the skills that firefighters acquire in their profession come from firsthand experience on the front lines – responding to fires and mitigating other emergencies. The amount of time a firefighter spends on his or her education, training, and previous experience should not be barrier to continued employment.

With respect to a fire department, the first priority is to engage a firefighting force that is best capable of keeping a community safe and therefore, fire department applicants should be viewed as first rate candidates. The sponsor argues that this bill levels the playing field for job applicants by allowing their credentials and qualifications for the position – earned in service to the citizens of California - speak instead of their status as a current or former public employee.

Arguments in Opposition:

A coalition of employer groups, including the California Chamber of Commerce, opposes this bill and states the following: "If the employer inquires into the applicant's relevant background either through a written job application that asks the applicant to list his or her prior employers, or through an in-person interview to discuss the applicant's work experience, and discovers the applicant's protected status as a former or current public employee, then the employer will be subject to potential civil litigation under this bill if the employer does not ultimately hire the individual.

Even if the decision to hire is based upon a separate, unrelated reason other than the individual's status as a former or public employee, once the "protected" information is discovered, it creates the opportunity for a discrimination lawsuit against the business. Unlike other protected classifications currently in California law, including age, marital status, or disability, an applicant's prior employment history is not something that an employer can easily navigate away from while inquiring about an applicant's work experience when interviewing or reviewing a candidate for employment in order to avoid a discrimination claim.

Moreover, we are not aware of any systematic discrimination in the private sector against individuals who are either current or former public employees that this bill seeks to address. The private sector should not be subject to the provisions of this bill. This bill will simply create more opportunities for civil litigation against employers, with the additional threat of treble damages, statutory fines and employee-only attorney's fees."

Fiscal effect:

According to the Assembly Appropriations Committee:

1) Unknown costs, potentially in excess of $1 million (special funds) for the Department of Industrial Relations to process, review, and investigate complaints.

2) Predicting the number and nature of the claims that may come before the Department of Industrial Relations Division of Labor Standards Enforcement (DLSE) is difficult. According to DLSE, cases involving retaliation often involve lengthy, resource intensive investigations. This bill also expands DLSE enforcement authority to include 3rd party internet website providers. This is a new addition to the DLSE statutory framework and associated costs are difficult to determine.

Support

Association for Los Angeles Deputy Sheriffs
Association of Deputy District Attorneys
California Association of Professional Employees
California Employment Lawyers Association
California Federation of Teachers
California Nurses Association
California Professional Firefighters (Sponsor)
Glendale City Employees Association
LIUNA Local 777
LIUNA Local 792

Los Angeles County Probation Officers Union, AFSCME, Local 685
Los Angeles Police Protective League
Organization of SMUD Employees
Riverside Sheriffs Association
San Bernardino Public Employees Association
San Diego County Court Employees Association
San Luis Obispo County Employees Association

Opposition

California Association of Bed and Breakfast Inns
California Chamber of Commerce
California Hotel and Lodging Association
California League of Food Processors
California Manufacturers and Technology Association
California Retailers Association
CAWA – Representing the Automotive Parts Industry
Mountain View Civil Justice Association of California
El Centro Chamber of Commerce & Visitors Bureau
Fullerton Chamber of Commerce
Greater Bakersfield Chamber of Commerce
Greater Fresno Area Chamber of Commerce
Irvine Chamber of Commerce
National Federation of Independent Business
Palm Desert Area Chamber of Commerce
Redondo Beach Chamber of Commerce and Visitors Bureau
Santa Clara Chamber of Commerce and Convention Visitors Bureau
Santa Maria Valley Chamber of Commerce and Visitors Convention Bureau
Simi Valley Chamber of Commerce
South Bay Association of Chambers of Commerce
Western Electrical Contractors Association

Status: Active - To Senate for assignment

Assembly votes: **Yes:** Linder, Medina
No: Jones, Melendez, Waldron

Legislative Item #7 **Action**

SB 358 (Jackson) Conditions of employment: Gender wage differential

Recommended action: SUPPORT
Presentation: Gene Wunderlich

Summary:

This bill revises the California Equal Pay Act to prohibit an employer from paying any of its employees at wage rates less than rates paid to employees of the opposite sex for substantially similar work, when viewed as a composite of skill, effort, and responsibility, and performed under similar working conditions. This bill also revises the "bona fide factor" exception in existing law to require the employer to prove:

(1) the factor is not based on or derived from a sex-based differential in compensation and is consistent with a business necessity, as specified; such as difference in education, training, or experience that is job related with respect to the position in question;

(2) each factor relied upon is applied reasonably; and

(3) the factors relied upon account for the entire pay differential. This bill defines "business necessity" as an overriding legitimate business purpose SB 358 Page 2 such that the factor relied upon effectively fulfills the business purpose it is supposed to serve. This bill also prohibits discrimination or retaliation against an employee who inquires about the wages paid to other employees.

Existing law:

1) Generally prohibits an employer from paying an employee at wage rates less than the rates paid to employees of the opposite sex in the same establishment for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions.

2) Establishes exceptions to that prohibition where the payment is made pursuant to a seniority system, a merit system, a system which measures earnings by quantity or quality of production, or a differential based on any bona fide factor other than sex.

3) Makes it a misdemeanor for an employer or other person acting either individually or as an officer, agent, or employee of another person to pay or cause to be paid to any employee a wage less than the rate paid to an employee of the opposite sex as required by these provisions, or who reduces the wages of any employee in order to comply with these provisions.

This bill:

1) Provides that an employer shall not publish or list an advertisement to recruit candidates for hire without including the minimum rate of pay, including overtime, as specified.

2) Prohibits an employer from paying wages for a position less than what were advertised.

3) Prohibits an employer from seeking salary history information, including compensation and benefits, from an applicant for employment for an interview or as a condition of employment.

4) Prohibits an employer from releasing the salary history of any current or former employee to any prospective employer without written authorization from the current or former employee.

Arguments in Support:

Proponents note that ending the gender wage gap would cut the poverty rate for working single mothers by nearly half, from 28.7% to 15%. They note that as a group working women in California lose over $33 billion each year, with the problem even worse for women of color. Proponents argue that existing laws have been ineffective in closing the gender-based pay gap, noting that the California Equal Pay Act has been in effect for over 65 years, with the last revision in 1985.

Proponents contend that its protections sorely need to be strengthened and updated. Proponents argue that SB 358 will strengthen California's existing Equal Pay Act by eliminating loopholes that prevent effective enforcement and powering employees to discuss pay without fear of retaliation.

Proponents specifically argue that SB 358 will ensure employees performing substantially equivalent work are paid fairly by requiring equal pay for work of a comparable character, eliminating the outdated same establishment requirement, by replacing the any bona fide factor other than sex catch-all defense with more specific affirmative defenses and strengthen protections for workers who inquire about or discuss their wages or those of their coworkers.

Arguments in Opposition:

None on file following amendments of April 6, 2015.

Supporting:

9to5 California,
National Association of Working Women
Californians for Community Empowerment
American Association of University Women
American Association of University Women - California
Bet Tzedek Legal Services
Business & Professional Women of Nevada County
California Chamber of Commerce
California Child Care Resource and Referral Network
California Employer Law Center
California Federation of Teachers,
AFT, AFL-CIO
California Labor Federation, AFL-CIO
California Nurses Association
California Partnership
California Rural Legal Assistance Foundation, Inc.
California School Employees Association, AFL-CIO
California Women Lawyers
California Women's Law Center
California Work and Family Coalition
Career Ladders Project
Center for Popular Democracy
Centro Legal de la Raza
Child Care Law Center
Communications Workers of America, AFL-CIO,
CLC Local 9003
Communications Workers of America, ALF-CIO, District 9
Community Action Fund
Planned Parenthood of Orange and San Bernardino Counties
Consumer Attorneys of California
Council on American-Islamic Relations, California Chapter
County of Santa Cruz, Board of Supervisors
Courage Campaign
Glendale City Employees Association
La Raza Centro
Legal Maintenance Cooperation Trust Fund
Monterrey County Board of Supervisors
Mujeres Unidas y Activas
National Council of Jewish Women-CA
National Domestic Workers Alliance
National Partnership for Women & Families
National Women's Law Center
Organization of SMUD Employees
Parent Voices
Planned Parenthood Action Fund of Santa Barbara, Ventura & San Luis Obispo Counties
Planned Parenthood Action Fund of the Pacific Southwest
Planned Parenthood Affiliates of California
Planned Parenthood Northern California Action Fund
Raising California Together

Redlands Area Democratic Club
Restaurant Opportunities Centers United
San Bernardino Public Employees Association
San Diego County Court Employees Association
San Francisco Unified School District
San Luis Obispo County Employees Association
TradesWomen Inc.
Ultra Violet
Western Center on Law and Poverty
Women in Non Traditional Employment Roles
Women's Foundation of California
Women's Law Project

Opposing:

None on record (5/20/15
CalChamber initially opposed pending satisfactory amendments.

Status: Active - To Assembly - held at desk

Senate votes: '**Yes**' Stone, Roth, Morrell

Legislative Item #8 **Action**

AB 339 (Gordon) Health care coverage: outpatient prescription drugs

Recommended action: OPPOSE
Presentation: Gene Wunderlich

Summary:

Pro: Expands coverage for outpatient prescriptions drugs by a health care service plan or insurer and places specified restrictions on copayments, coinsurance, and other cost sharing.

Con: Increases Prescription Drug Spending. Creates confusing requirements for issuers and drives up the cost of health care premiums by capping co-payments for prescription medications, mandating coverage for more expensive forms of certain prescription medications, and restricting the ability of issuers and employers to design prescription drug formularies to control costs. **AB 339** severely restricts the ability of health care issuers and purchasers to control health care costs through their prescription drug benefit designs, and places strict caps on prescription drug copayments. It also seeks to usurp the more reasonable approach recently adopted by Covered California to help individuals who need expensive medications

Purpose of Bill:

According to the author, the goal of this bill is to implement and improve upon concepts from federal guidance and Covered California in order to ensure that Californians are better able to afford their prescription drugs and that the antidiscrimination provisions of the ACA remain intact. The author asserts that this bill is needed to address the devastating financial effects of high out-of-pocket prescription expenses. High cost drugs are often on the highest cost tier of a drug formulary with coinsurance of up to 20%. As a result, a patient may exhaust their annual out-of-pocket limit of $6,600 with a single prescription in the first month. Too many patients are forced to choose between paying for their life-saving drugs and paying for housing, child care, or food.

When patients cannot afford their medication, research shows that they skip doses, they cut pills in half, and they don't fill their prescription. The author argues that this bill benefits Californians with chronic and serious health conditions by implementing concepts from federal guidance, improving upon them around the anti-discrimination provisions of the ACA, and by increasing Californians' access to essential prescription drugs.

Existing Law:

1) Regulates health plans through the Department of Managed Health Care and health insurance policies through the Department of Insurance.

2) Mandates the 10 federally required Essential Health Benefits (EHBs) and establishes Kaiser Small Group health plan as California's EHB benchmark plan.

3) Requires, on or after January 1, 2015, for non-grandfathered health plan contracts or health insurance policies in the individual and small group markets, to provide for a limit on annual out-of-pocket expenses for all covered benefits that meet the definition of EHB, including out-of-network emergency care, as specified. For large group, requires a non-grandfathered health plan or health insurer to provide for a limit on annual out-of-pocket expenses for covered benefits, including out-of-network emergency care, as specified. Requires this limit to only apply to EHBs that are covered under the plan or policy to the extent that this provision does not conflict with federal law or guidance on out-of-pocket maximums.

4) Requires the maximum out-of-pocket limit to apply to any copayment, coinsurance, deductible and any other form of cost sharing for all covered benefits that meet the definition of EHB.

5) Limits the total maximum out-of-pocket limit for all EHBs to the dollar amounts in effect under the Internal Revenue Service, as specified, as adjusted by the Patient Protection and Affordable Care Act (ACA), as specified.

6) Limits, for an individual or group health care service plan contract or health insurance policy issued, amended, or renewed on or after January 1, 2015, that provides coverage for prescribed, orally administered anticancer medications used to kill or slow the growth of cancerous cells, the total amount of copayments and coinsurance an enrollee or insured is required to pay for orally administered anticancer medications to $200 for an individual prescription of up to a 30-day supply.

7) Establishes Covered California as California's health benefit exchange where individuals and small employers can purchase standardized health insurance from selectively contracted qualified health plans based on bronze, silver, gold and platinum actuarial level categories.

This bill:

1) Requires a plan or policy that covers prescription drugs to cover all medically necessary prescription drugs, including those for which there is no other therapeutic equivalent.

2) Requires that copayments, coinsurance, and other cost sharing for outpatient prescription drugs be reasonable.

3) Requires the plan or insurer to demonstrate to the regulatory agency that the proposed cost sharing will not discourage medication adherence. Requires the plan or insurer to demonstrate that the formulary does not discourage the enrollment of individuals with health conditions and does not reduce the generosity of the benefit for enrollees with specific conditions.

4) Requires the plan or policy to cover of single-tablet and extended release regimens if they are clinically as, or more, effective than a multi-tablet drug regimen.

5) Prohibits a plan or policy from placing most or all of the drugs to treat a single condition on the highest cost tier of a formulary, unless there is a therapeutic equivalent drug available in a lower cost tier.

6) Requires a plan or policy formulary to be the same or comparable in the individual market as in the group market.

7) Limits, for plans and policies in both individual and group market, the copayment, coinsurance, or other cost sharing for an individual outpatient prescription drug to 1/24 of the annual out-of-pocket limit for a 30 day supply.

8) Requires plans and insurers to use formulary tiers defined as:

a) Tier one consists of preferred generic drugs or comparably priced preferred branded drugs;

b) Tier two consists of nonpreferred generic drugs, preferred branded drugs, and any other drugs recommend by the pharmaceutical and therapeutics committee (P&T) based on safety and efficacy and not solely based on the cost of the drug;

c) Tier three consists of nonpreferred brand name drugs that are recommended by the P&T based on safety and efficacy and not solely based on the cost of the drug; and,

d) Tier four consist of biologics, as defined, or drugs that cost more than the Medicare Part D threshold, if recommended by the P&T based on safety and efficacy. Prohibits placement in this tier based solely on the cost of the drug

Arguments in Support:

Health Access California, sponsor of this bill, states that this bill is would prevent discrimination against consumers with health conditions by setting standards for cost sharing of prescription drugs. This bill would put in place consumer protections that are consistent with federal law and regulations to offer important consumer protections to Californians with chronic conditions. Biocom states that this bill sets realistic limits on out-of-pocket expenses for patients, while maintaining a plan's ability to direct patients to therapeutically equivalent lower cost drugs. This bill will help insure that patients have access to medications deemed by their physician to be the best course of treatment for the specific patient.

The California Academy of Physician Assistants write that if patients have consistent, affordable access to their medications they are more likely to adhere to the medications regiment prescribed by their provider. Medication adherence is essential to improving health and outcomes for people with chronic conditions. Pricing specialty medications far out of reach, due to excessively high co-insurance, often results in an inability of the patient to adhere to their treatment plan, further jeopardizing their health.

Arguments in Opposition:

California Association of Health Plans states that this bill does nothing to control the high underlying cost of pharmaceuticals, nor does it do anything to encourage the makers of drugs to be more efficient and lower costs. Opponents argue that this bill would increase costs for all consumers because health plans will be forced to absorb almost all of the cost of expensive drugs and then spread that cost across all enrollees.

California Association of Health Underwriters states that this bill's real world impact, if enacted, will be to ensure that costs for specialty drugs are shifted from out of pocket costs to premiums increases for all health care consumers. The Pharmaceutical Care Management Association states that annual out-of-pocket expense caps were just implemented in 2013, and it is therefore too early to be changing the metrics by which caps are determined. They state that administration of this proposal would be burdensome because current computer and benefit management systems are not configured to adjudicate monthly maximums and partial transactions.

Opponents of this bill state that restrictions on formulary design are burdensome and unnecessary, and will not be consistent with Covered California's broader policies emphasizing cost-savings and access. Kaiser Permanente, with an oppose unless amended position, states the need to wait until Covered California's final action is determined before having a clear sense of amendments that would be requested in this bill.

Fiscal effect:

1) One-time costs to California Department of Managed Health Care (DMHC) to issue regulations and review plan compliance of $3.7 million over three fiscal years, and $450,000 ongoing to ensure compliance (Managed Care Fund).

2) One-time costs to California Department of Insurance (CDI) to issue regulations and review insurance policy compliance in the low hundreds of thousands, and $80,000 ongoing (Insurance Fund).

3) Since the California Health Benefits Review Program analyzed this bill, it has been amended to restrict its application to prescription drugs that constitute essential health benefits. Therefore, the numbers cited here represent an upper bound on potential costs associated with the provision to cap cost-sharing amounts.

a) No impact on state-funded health care programs, including The California Public Employees' Retirement System (CalPERS) and Medi-Cal.

b) Increased employer-funded premium costs in the private insurance market of $162 million.

c) Increased premium expenditures by employees and individuals purchasing insurance of $216 million, offset by reductions in out-of-pocket costs of $65 million for the approximately 46,000 Californians with high-cost drugs, working out to a savings of around $1,400 per individual affected.

Unknown, potentially significant fiscal impact on the private health insurance market for other provisions not quantitatively analyzed by California Health Benefits Review Program (CHBRP).

Support

Health Access (sponsor)
AIDS Project Los Angeles
American Federation of State, County, and Municipal Employees, AFL-CIO
Association of Northern California Oncologists
Berkeley Free Clinic
Biocom
California Academy of Physician Assistants
California Black Health Network
California Chronic Care Coalition
California Communities United Institute
California Healthcare Institute

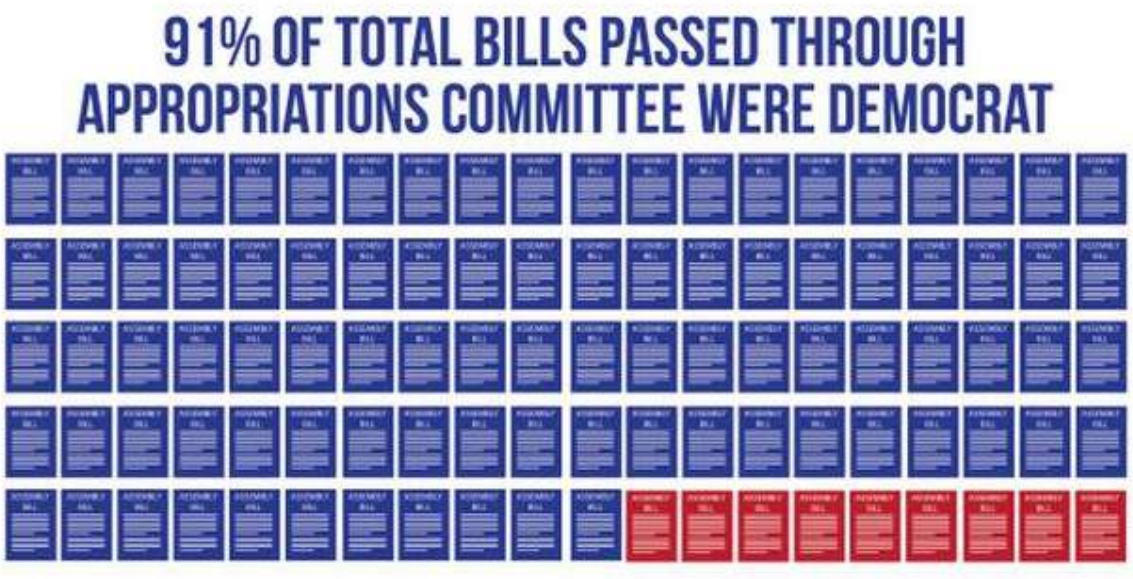
California LGBT Health and Human Services Network
California Nurses Association California
Pan-Ethnic Health Network
California Teachers Association
CALPIRG
Community Clinic Association
Comprehensive Opiate Recovery Experience Medical Clinic
Consumers Union Epilepsy
Hemophilia Council of California
Los Angeles LGBT Center
National Association of Social Workers, California Chapter
National Multiple Sclerosis Society – CA
National Psoriasis Foundation
National Stroke Association
Project Inform
San Francisco AIDS Foundation
San Luis Obispo County AIDS Support Network
SLO Hep C Project Stroke Advocacy Network
Western Center on Law and Poverty

Opposition

America's Health Insurance Plans
Blue Shield of California
CalChamber
California Association of Health Plans
California Association of Health Underwriters
California Association Joint Powers Authorities
CSAC Excess Insurance Authority
CVS
Health Express Scripts
Health Net
Kaiser Permanente (unless amended)
Pharmaceutical Care Management Association
Simi Valley Chamber of Commerce

Status: Active bill - to Senate for assignment

Assembly votes:
Yes: Medina
No: Jones, Linder, Melendez, Waldron



2015 Bills to Raise Taxes

Bill	Estimated Annual Cost to Taxpayers	Status
Sales Tax on Services – SB 8 (Hertzberg)	**$122.63 Billion**	☠
Higher Taxes for Roads and Highways – SB 16 (Beall)	**$3.5 Billion**	⧗
Tax-Like "Fee" on Soda – AB 1357 (Bloom)**	**$3.3 Billion**	☠
Tobacco Tax Increase – SB 591	**$1.3 Billion**	⧗
Potential L.A. County MTA Sales Tax Increase – AB 338 (Roger Hernández) and SB 767 (de León)***	**$800 Million**	⧗ ⧗
Corporate Tax Increase – SB 684 (Hancock)	**$320 Million**	⧗
Real Estate Documents Tax – AB 1335 (Atkins)	**$300 Million – $500 Million or More***	⧗
Tax on Marijuana – AB 26 (Jones-Sawyer), AB 34 (Bonta), AB 266 (Cooley), and SB 643 (McGuire)***	**$200 Million or More***	☠ ⧗ ⧗ ⧗
Tax on Insurance Policies – AB 1203 (Jones-Sawyer)	**$200 Million**	☠
Healthcare Provider Tax – AB 1434 (McCarty)	**$150 Million**	☠
Beverage Container Fee Increase – SB 732 (Pan)	**$60 Million – $80 Million***	☠
Sales and Use Tax Rate Limit – AB 464 (Mullin)**	**Tens of Millions of Dollars to Several Billion Dollars***	⧗
Online Gambling Registration Fee – AB 9 (Gatto) and AB 167 (Jones-Sawyer)	**$34 Million to $51 Million***	⧗ ⧗
Tire Recycling Fee Expansion – AB 1239 (Gordon)	**$41.9 Million**	⧗
Heavy Equipment In-Lieu Tax – SB 480 (Pan)	**$22.8 Million**	☠
Tax on Hazardous Waste Transported by Surface Carriers – AB 102 (Rodriguez)	**$10 Million**	☠
Fireworks Fee – SB 677 (Mendoza)	**$7 Million**	☠
Medical Marijuana Permit Fee Increase – AB 243 (Wood)	**$6 Million**	⧗
Craft Beer Event Permit Fee – AB 776 (Cooper)	**Estimate Unavailable**	⧗
Court Reporting Fee Increase – AB 804 (Roger Hernández)	**Estimate Unavailable**	⧗
Solid Waste Disposal Fee Increase – AB 1063 (Williams)	**Estimate Unavailable**	⧗
Isla Vista Utility Users' Tax – AB 3 (Williams)	**Estimate Unavailable**	⧗
Regional Center Parental Fee Increase – AB 564 (Eggman)	**Estimate Unavailable**	⧗
Mobile Home Gas-Line Fee – AB 682 (Williams)	**Estimate Unavailable**	⧗
Tax on Public Safety Officers' Benefit and Relief Associations – AB 1072 (Daly)	**Estimate Unavailable**	☠
Financial Service Provider Fee – AB 1341 (Brown)	**Estimate Unavailable**	☠
Disability Access Fee Extension – AB 1342 (Steinorth)	**Estimate Unavailable**	🗁
Fee on Independent Expenditure Committees – AB 1494 (Levine)	**Estimate Unavailable**	☠
Potential for Higher Local Transportation Taxes – ACA 4 (Frazier)	**Estimate Unavailable**	⧗
Medi-Cal Application Fee – SB 299 (Monning)	**Estimate Unavailable**	⧗
Expansion of Hotel Taxes– SB 593 (McGuire)	**Estimate Unavailable**	⧗
Tax on Municipal Bond Interest – SB 710 (Galgiani)	**Estimate Unavailable**	⧗
Law Library Fee Increase – SB 711 (Wolk)	**Estimate Unavailable**	⧗
Potential for Higher Local Taxes – SCA 5 (Hancock)	**Estimate Unavailable**	⧗

Key

* The estimate for this bill contains a range. For purposes of calculating a revenue total for the report, the lowest figure in the range was used.

** No revenue estimate was prepared for this bill. The estimate for this bill came from legislative or tax agency analysis on a similar bill for a prior session of the Legislature.

*** Similar or identical versions of this bill were introduced. For purposes of calculating a revenue total, the revenue effect was counted only once.

⧗ This legislation is active and moving through the Legislature.

🗁 The bill has been placed on a committee's suspense file and could be acted upon at a later date.

☠ The bill is effectively "dead" because: 1) the tax/fee provisions of the bill have been amended out of the current version of the bill; 2) the bill failed a deadline, but could be brought back if legislative rules are suspended or waived, or if other action is taken; 3) the author has made the bill a "two-year" bill and could bring the bill up for a vote next year; or 4) the bill was rejected by a house of the Legislature or legislative committee, but could be revived upon reconsideration.