

SWCLC

Southwest California Legislative Council

A coalition of the
Temecula Valley, Murrieta, Lake Elsinore Valley, Wildomar & Menifee
Chambers of Commerce

MEETING AGENDA
Monday, May 19, 2014

Realtor House, 26529 Jefferson Avenue, Murrieta CA

Presiding: Alex Braicovich, Chair

2014 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 April 2014 Meeting Minutes Action
2. Legislative Report #5 Action
 1. [AB 2372 Ammiano \(D\) - Property taxation: change in ownership.](#)
 2. [AB 2604 Brown \(D\) - Workers' compensation: proceedings: payment delay.](#)
 3. [SB 1188 Jackson \(D\) - Consumers Legal Remedies Act: facts](#)
 4. [SB 1372 DeSaulnier \(D\) - Corporation taxes: tax rates: publicly held corporations.](#) S
 5. [SB 994 Monning \(D\) - Vehicles: vehicle information: privacy.](#)
 6. [AB 1531 Chau \(D\) - Charter schools: operating as or by a nonprofit public benefit corporation.](#) S
 7. [SB 1446 DeSaulnier \(D\) - Health care coverage: small employer market.](#)
3. Manufacturing in the Golden State Information

Michele Nash-Hoff
4. Legislator, Staff and Stakeholder Updates Information

Federal: Senators Feinstein & Boxer. Representatives Calvert & Hunter
State: Governor Brown, Senators Anderson & Roth, Assemblymembers Melendez, Waldron & Jones
Local: County, Cities, Utilities, EDC, Healthcare, League of Cities
5. Chamber & Council Member Announcements Information
6. Today's lunch sponsored by: [Elsinore Valley Municipal Water District](#) Thank you

Adjourn – Next meeting May 19, 2014.



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**Southwest California Legislative Council
Menifee Valley Chamber of Commerce
Murrieta Chamber of Commerce
Temecula Valley Chamber of Commerce
Lake Elsinore Chamber of Commerce
Wildomar Chamber of Commerce
Meeting Minutes
April 21, 2014**

Legislative Consultant: Gene Wunderlich

2014 Chair: Alex Braicovich

Directors Attendance:

Steve Amante, Amante & Associates
Tony Amatulli, Amatulli Auto Parts
Pietro Canestrelli, Reid & Hellyer APC
Dennis Frank, D.R. Frank & Associates
Judy Guglielmana, Town & Country Realty, EVWMD
Jason Hope, JD Promotions

Tony LoPiccolo, Carrington Mortgage Services
Greg Morrison, EVMWD
Don Murray, Commerce Bank of Temecula Valley
Brad Neet, Southwest Healthcare Systems
Shaura Olsen, Walmart
Joan Sparkman, Southwest Healthcare Systems
Gary Thornhill, Tierra Verde

Directors Absent: Glen Diagle, Oakgrove Equities;

Council Guests:

Andrew Abeles, Coldwell Banker Residential Brokerage
Brian Ambrose, City of Murrieta
Jeff Bott, TCA-The Toll Roads
Josaline Cvesta, Senator Anderson
Brenda Dennstedt, Ken Calvert
Kenneth Dickerson, MVUSD
Jeremy Goldman, SCE
Kristin Harrison, DIY Divorce
Betsy Lowrey, City of Temecula
Connie Lynch, SRCAR
David Madsen, SC AQMD
Mike Mason, Mason Real Estate
Nathan Miller, BIA

Joyce Moore, Home Smart Legends
Morris Myers, EDC
Adam A. Ruiz, 1st Action Real Estate
Yvonne Ruiz, Wine Country Notary
Myles Ross, Sunbelt Business Broker
Erin Sasse, League of Cities
Tom Somers, Pacific Advisors
Meggan Valencia, Rancho CA Water District
Darlene Wetton, Temecula Valley Hospital
Walter Wilson, SRCAR Board President
Balfev S. Vij, Singma Investments
Jeff Wyman, City of Menifee
Roger Ziemer, RCWD

Staff Present:

Laura Turnbow – Temecula Valley Chamber of Commerce
Patrick Ellis– Murrieta Chamber of Commerce
Kim Cousins-Lake Elsinore Valley Chamber of Commerce
Wendy Mitchell- Wildomar Chamber of Commerce

Meeting called to order at: 12:06 by Chairman Alex Braicovich

1. Approval of Minutes _____ Action

Directors reviewed the minutes from the March 17, 2014 meeting. A correction was made to the time of call to order and it was changed to 12:06 instead of 12:26. **The motion was made to approve the minutes with correction. The motion was seconded and carried by a unanimous vote.**

2. Legislative Report #4 Action

AB 777 (Muratsuchi; D-Torrance) Taxes: exemption: space flight property. **Following discussion the motion was made to SUPPORT AB777. The motion was seconded and carried by a unanimous vote.**

AB 2448 (Jones; R-El Cajon) – Employment: flexible work schedules. **Following discussion the motion was made to SUPPORT AB 2448. The motion was seconded and carried by a unanimous vote.**

AB 2416 (Stone; D-Scotts Valley) – Liens: laborers and employees. **Following discussion the motion was made to OPPOSE AB 2416. The motion was seconded and carried by a unanimous vote.**

AB 2420 (Nazarian; D-Studio City) – Well stimulation treatments: local prohibition. **Following discussion the motion was made to OPPOSE AB 2420. The motion was seconded and carried by a unanimous vote.**

SB 1132 (Mitchell; D-Los Angeles) – Oil and gas: well stimulation treatments. **Following discussion the motion was made to OPPOSE SB 1132. The motion was seconded and carried by a unanimous vote.**

AB 1330 (J. Perez; D-Los Angeles) Environmental justice. **This bill is dead.**

4. Marketplace Fairness Act Jeff Kurtz, The Promenade Mall Information
--Had to be re-scheduled

5. Legislator, Staff and Stakeholder Updates Information

Congressman Ken Calvert

Report by Brenda Dennstedt

His top priority is the drought funding. He visited our community last week, had several meetings including with the city of Wildomar and the Murrieta BBQ. He is now back in D.C. He also met in Corona with California Against Lawsuit Abuse.

Senator Joel Anderson

Report by Joselyn

A few bills to mention – SB 828 Privacy Act. SB 1367 – tax exemption for emergency vehicles. SB 1214 – Senior property tax postponement.

Assemblywoman Melissa Melendez

Report by Deni Horne

There are a few bills to mention – AB 579- Mandatory Supervision for Criminals once released. AB 2217 – AED's in schools. AB 2329 – Would give some tax relief to veterans. Also, there is a Bone Marrow Donor Event on May 9th.

Assemblywoman Marie Waldron

Report by Tom Stinson

A few bills to mention – AB 1436 – Inspection reports of elderly abuse to be posted on the state's website. AB 1447 – Greenhouse gas funds. AB 1850 – Restraining orders to be applied to children, not just the adults, if they are witness to a crime, it has passed Appropriations. AB2266 – Laura's Law – would lengthen outpatient treatment from 6 months to 12 months. AB 2353 – Water – gives local district to expand storage up to 25% without having to get approval.

City of Murrieta

Report by Rick Gibbs

There is an assemblies subcommittee passing a resolution stating that cities should not have the power to hire anyone except public employees. This will take away flexibility from cities. Cal Trans is moving away from local control. They should be reducing the number of cars on the road and repairing the roads. Cal Trans thinks it's job is to build roads.

The money is being given to the counties and cities to use how they feel appropriate and they want new roads. Sacramento should be deciding how the money is spent. A few bills to mention – AB 32 Reducing Greenhouse gases. SB 375 – Sustainable community. (Brian) AB 2715 – Mandate elections of cities over 100,000 has been amended. Not mandatory, now it is voluntary.

City of Temecula

Report by Betsy

A few bills to mention - AB 1521 and SB 69 – VLF funding, not sure of their status. Support HR 3978 – Bicycle and pedestrian infrastructure package. Oppose AB2153 – this bill will kill the satellite programs for college classes. The Unions want any kind of classes off campus to be funded by the state. State of the City is on May 8th with Mayor Edwards.

City of Menifee

Report by Jeff

Watching the VLF bill. Housing and Retail is strong. The one hundred million dollar capital improvement program is moving forward. The 215/Newport interchange is under construction this year.

Murrieta Unified School District

Report by Ken

Thanks the Chamber and City of Murrieta for the great Education Technology Expo that was recently held. On May 13th, there will be an informal meet and greet with Congressman Calvert. Contact Ken for more information if you are interested.

League of Cities

Report by Erin Sasse

HR 29 – Outsourcing bill (done) this is a bad bill. AB 1521/SB 69 VLF bill, watching and hearing that some movement should happen soon. Senator Roth did have a budget hearing on this issue, he is working both angles. He is hoping there is money in the budget to help the impacted cities. SB 1129 (Steinberg) – RDA cleanup bill and it will allow cities to use bond proceeds if they are consistent with sustainable community strategy. AB 2188 (Meratsuchi) OPPOSE - it would require cities to turn around solar permits within 24 hours. AB 1035 (Perez) extend statute of limitations for death benefits from a little over 4 years to 8 years for fire fighters and peace officers for a list of various illnesses. It would be a burden to cities. AB 1522 (OPPOSED) - one hour of paid sick leave to be paid to an employee for every 30 hours worked and there are some tracking requirements after the employee has left the business. Not a good bill. Next division meeting on May 12th in Indian Wells.

Southcoast Air Quality Management District

Report by Dave Madsen

AB 1330 (Perez) – this agency has problems with this bill. Not used to the state requiring double fines because the governing board makes those decisions. They will be watching that bill. 80% of our pollution comes from mobile sources. AB 2013 – high occupancy vehicle lanes bill. SB 1204 – California clean truck, bus, and off road vehicle and equipment technology program. SB 1275 – vehicle retirement and replacement. Annual clean air awards coming up this fall.

EDC

Report by Morris Myers

Bringing to light that although it is being said that the economy is better and that jobs have come back, it is still rough out there! In our 5 city region will have about 10,000 16 to 19 year olds looking for work this summer. About 1% will actually get a job. Many entry level jobs are requiring 1 to 2 years' experience, which of course these students will not have. We are hoping that there are federal dollars to help. Please try and hire a youth this summer.

Temecula Valley Hospital

Report by Darlene Wetton

May 3rd – Heart Walk for the American Heart Association. This represents all of south Riverside County. It is the 4th Annual event and will be held at Lake Skinner. The hospital will be hosting Assemblywoman Marie Waldron on Friday, April 25th. Temecula Valley is still hiring, trying to help the economy. AB 2448 – concerned about the impact this will have on healthcare. Asking the council to review their support of this bill.

Southwest Healthcare Systems

Report by Brad Neet

Federal news – 2 midnight rule, this requires a patient to stay 2 midnights for them to get paid as an in-patient stay, otherwise it will be billed as an out-patient stay. ICB 10 – how the hospital gets paid, this book is going up to 68,000 codes.

4. Chamber & Council Member Announcements Information

Gary Thornhill

French Valley Airport – Wings of Freedom Tour

Dennis Frank

AB 1531 – Changes Charter Schools also, takes away the right of the school board, it moves the control to the state level. Not a pretty picture.

Lake Elsinore Valley Chamber of Commerce

Report by Kim Cousins

Hump Day Coffee Mixer – May 14th at the Lake Elsinore Casino.

May 15th – EWDC Luncheon at the Diamond talking about water bonding issues with WMWD.

May 15th Evening Mixer at Craft Brewing and Winery.

Murrieta Chamber of Commerce

Report by Patrick Ellis

May 1st – Farmstead Market Mixer

May 16 – Annual Brew Masters Golf Tournament at The Golf Club at Rancho California

Wildomar Chamber of Commerce

Report by Wendy Mitchell

May 7th – State of the City at the Elks Lodge with Mayor Marsha Swanson

May 15th Mixer at DeJong's Dairy at 5:30 pm

Temecula Chamber of Commerce

Report by Alice Sullivan

May 8 – State of the City at Pechanga at 7:30 am

June 5 – Economic Forecast at South Coast Winery

April 25th – Professional Development Series on Loss Prevention

Temecula Chamber of Commerce received the President's Award from the California Chamber of Commerce.

Mercedes dealership is now open!

Alex Braicovich

Brad Neet will be joining the Council as of next month on behalf of the Lake Elsinore Chamber of Commerce.

5. Lunch Sponsor Massage Envy of Wildomar Alex

Braicovich thanked Massage Envy of Wildomar for sponsoring lunch and Southfork Catering for the delicious food.

Motion to Adjourn at 1:25 p.m.

[AB 2372 Ammiano \(D\) - Property taxation: change in ownership.](#)

Recommended action: **OPPOSE**

Presentation: Gene Wunderlich

Bill Summary:

Split Roll Change of Ownership. **AB 2372 has been identified as a JOB KILLER** by the Cal Chamber, as it completely alters the definition of "change of ownership" for commercial property for the purpose of increasing their property taxes. Unfairly targets commercial property by redefining "change of ownership" so that such property is more frequently reassessed, which will ultimately lead to higher property taxes that will be passed onto tenants, consumers, and potentially employees.

Background**EXISTING LAW:**

- 1) Provides that all property is taxable, unless otherwise provided by the California Constitution or federal laws. Limits ad valorem taxes on real property to 1% of the full cash value of that property (Proposition 13).
- 2) Requires real property to be reassessed to its current fair market value whenever a "change in ownership" occurs. 3) Provides that "change in ownership" includes a transfer of any interest in real property between a corporation, partnership, or other legal entity and a shareholder, partner or any other person. (R&TC Section 61(j).)
- 4) Specifies in RT&C Sections 60 through 69.5 what constitutes "a change in ownership." Sets forth the general rule that, when real property is owned by a legal entity, the purchase or transfer of ownership interests in that entity does not trigger a change in ownership of the property, unless a) there is a "change in control" of the legal entity, or b) a cumulative transfer of more than 50% by the "original co-owners." (R&TC Section 64.) Thus, when any person or entity obtains control, through direct or indirect ownership or control, of more than 50% of the voting stock of a corporation, or a majority ownership interest in any other type of legal entity, a reassessment of real property owned by the acquired legal entity (or any of its subsidiaries) is triggered. (R&TC Section 64(c)(1)(A).) Furthermore, when voting stock or other ownership interests representing cumulatively more than 50% of the total interest in a legal entity is transferred by any of the "original co-owners" in one or more transactions, the real property that was previously excluded from reappraisal will be reassessed. [R&TC Section 64(d)].
- 5) Requires legal entities to file a change in ownership statement with the BOE within 90 days of a change in control or change in ownership under R&TC Section 64(c) or (d). In the case of a change in control under R&TC Section 64(c), the person or legal entity that acquired control is responsible for filing the LEOP COS.
- 6) Imposes a 10% tax penalty, applicable to the new base year value reflecting a change in ownership, on legal entities that fail to file a change in ownership statement with the BOE.
- 7) States that, generally, when real property is owned by a homeowner, the purchase or transfer or ownership interests in that entity triggers a change in ownership of the property. However, specific exemptions from reassessment are provided for intra-family transfers, replacement residences of senior citizens and disabled persons, and specific types of home improvements.
- 8) Requires business personal property to be reassessed annually at its current market value. Personal property owned by a homeowner is not generally subject to property taxation.

THIS BILL:

- 1) Contains legislative findings and declarations regarding the existing system for determining a "change in ownership" for the purpose of commercial property assessment.
- 2) Provides that, when 100% of ownership interests in a legal entity are sold or transferred in a single transaction, the purchase or transfer of those interests is considered to be a "change of ownership" of the real property owned by the entity, thus, triggering a reassessment of the property for tax purposes.
- 3) Specifies that a "purchase or transfer" of ownership interests in a legal entity means a merger, acquisition, private equity buyout, transfer of partnership shares, or any other means by which a legal entity acquires the ownership interests of another legal entity, including the subsidiaries or affiliates of the legal entity and the property owned by those subsidiaries and affiliates.

- 4) States that a purchase or transfer of 100% of ownership interests in a legal entity is considered to be a "change of ownership" of the real property owned by that entity, whether or not any one legal entity that is a party to the transaction acquires more than 50% of the ownership interests.
- 5) Requires the State Board of Equalization (BOE) to notify assessors when such a change in ownership has occurred.
- 6) Defines the phrase "single transaction" as a transaction in which 100% of the ownership interests are sold or transferred in either one calendar year or within a three-year period beginning on the date of the original transaction when any percentage of ownership interests are sold or transferred.
- 7) Defines the term "legal entity" as a corporation, a partnership, a limited liability company, or other legal entity.
- 8) Defines the phrase "ownership interests" as corporate voting stock, partnership capital and profits interests, limited liability company membership interests, and other ownership interests in legal entities.
- 9) Requires persons acquiring ownership interests in a legal entity to record a deed with the county recorder and report the acquisition to the BOE.
- 10) Requires legal entities to report original co-owners interest changes to the assessor.
- 11) Requires the BOE to prescribe regulations that may be necessary to carry out the purposes of this bill.
- 12) Increases the penalty for failure to file a change in ownership statement with the BOE from 10% to 20%.
- 13) Takes effect immediately as a tax levy.

Arguments in Favor:

The current system provides property owners with several ways to structure "change in ownership" transactions to avoid paying higher property taxes and allows purchasers to avoid reassessment even if 100% of a company changes hands. A business may avoid a reappraisal of the property of an acquired entity by simply structuring the acquisition in a way that prevents any of the separate purchasers from receiving more than 50% ownership in the acquired entity. Thus, if multiple individuals or entities acquire another entity, in a single transaction, but none of the purchasers acquires more than 50% interest in the entity, a reappraisal of the property is not required.

What is a "Split Roll"? The phrase "split roll" generally refers to a system of taxation where various types of real property are taxed according to different standards or at different tax rates. The "split" is typically proposed between residential property (or the subset of owner-occupied homes) and all other property types. This phrase is often used to describe any legislation attempting to redefine "change in ownership" as it applies to the purchase or transfer of ownership interests in legal entities (i.e., stock or ownership shares in a corporation or partnership) that own real property in a way that would trigger more frequent reassessments to current market value levels. Although the phrase is used to describe proposed amendments to the "change in ownership" rule, it is not truly a "split roll" as it is more generally understood because commercial property, under the provisions of this measure, will not be taxed according to a different set of standards, i.e., market-value assessment or a different tax rate. A true "split roll" - a different tax rate or value standard - is not possible without a constitutional amendment.

Arguments in Opposition:

Currently, under Proposition 13, commercial property is reassessed only when there is an actual change of ownership in the entity that owns the property. That is, another entity or person has acquired at least 50% of the ownership interest of the entity that owns that property and therefore has a controlling interest in the property. This is the most common-sense interpretation of Proposition 13's requirements. It creates a bright line to determine when property ownership has changed, and it is consistent with the underlying purpose of Proposition 13, which intended to provide property owners certainty and stability about the amount of property taxes due – on sale and thereafter.

AB 2372 would drastically alter the definition of "change of ownership" under Proposition 13 by dictating that a "change of ownership" occurs whenever 100% of the ownership interests in the legal entity that owns the commercial property are sold within a three-year period, regardless of whether any person or entity actually obtains control through direct or indirect ownership of at least 50% of the voting stock or ownership interest in the entity owning the property. This new definition, which merely focuses on ownership rather than control, will subject commercial property, especially property held by publicly traded corporations, to continuing reassessment that will at some point result in higher property taxes – the obvious intent of this legislation. However, given that a reassessment could be triggered under this definition on a daily, weekly, or even monthly basis, the anticipated revenue gain by AB 2372 will be obsolete, as the market value of commercial property does not change within

such a short time frame. Thereby, AB 2372 will result in becoming a tool for harassing owners of commercial property with constant reassessments, and an overwhelming workload for county assessors.

The ultimate effect of increasing property taxes for commercial property will keep detrimental impacts on the general public, including small businesses, apartment residents, employees, and consumers. Any higher taxes imposed on companies who own commercial property will likely be passed on to the tenants of such property through higher rent, including businesses and individuals who rent apartments in which to live. Such increased costs will continue to be passed onto others, including potential reduction of employee benefits, reduction of workforce, or even higher prices for consumers.

Moreover, with the proposed definition of "change of ownership" under AB 2372, it will trigger reporting requirements for multiple "owners" of these entities. Despite the percentage of ownership an individual or entity acquires in a company, they will be required to report this change in ownership or face a penalty up to 20% of the assessed fair market value of the commercial property. A penalty for failure to file a statement is imposed even if the county assessor ultimately determines no "change of ownership" has occurred. This duplicative and onerous reporting requirement that AB 2372 seeks to impose creates a potentially unfair monetary trap for a minority owner in a company that is unaware that a 100% change of ownership within the prior three years has even taken place." Opponents also state that, "The idea of a split-roll property tax has been fully vetted and consistently rejected since the passage of Proposition 13 in 1978. While some believe that a split roll would raise revenue, it would, in fact, stifle the state's economic growth in the long term. From what is known about the economic impacts of split roll, it remains an ill-advised idea." Furthermore, the opponents argue that Proposition 13 does not shift the property tax burden to homeowners and, in fact, "Proposition 13 has prevented a property tax shift to homeowners."

Support: (as of 4/9/14)

None on file

Opposition:

Air Conditioning Trade Association
Air Logistics Corporation
American Coating Association
American Resort Development Association
Apartment Association
Apartment Association of Greater Los Angeles
Apartment Association, California Southern Cities
Associated General Contractors of California
BIOCOM
Boston Properties
Building Owners and Managers Association of California
California Apartment Association
California Association of Boutique & Breakfast Inns
California Association of Realtors
California Attractions and Parks Association
California Bankers Association
California Beer and Beverage Distributors
California Building Industry Association
California Business Properties Association
California Chamber of Commerce
California Grocers Association
California Healthcare Institute
California Hotel & Lodging Association
California Manufacturers & Technology Association
California Mortgage Bankers Association
California New Car Dealer Association
California Railroad Industry
California Restaurant Association
California Retailers Association
California Tank Lines, Inc.
California Taxpayers Association
California Travel Association
Camarillo Chamber of Commerce

Chambers of Commerce Alliance, Ventura & Santa Barbara Counties
Chemical Transfer Company, Inc.
Construction Employers' Association
Contra Costa Taxpayers Association
Council of State Taxation
East Bay Rental Housing Association
EastGroup Properties, Inc.
Family Winemakers Association
General Growth Properties
Greater San Fernando Valley Chamber of Commerce
Howard Jarvis Taxpayers Association
International Council of Shopping Centers
LTC Properties, Inc.
NAIOP of California, the Commercial Real Estate Development Association
National Federation of Independent Business
NOR CAL Rental Property Association
Orange County Business Council
Orange County Taxpayers Association
Pacific Life Insurance Co.
Plumbing-Heating-Cooling Contractors Association of California
San Diego County Apartment Association
San Francisco Chamber of Commerce
San Jose Silicon Valley Chamber of Commerce
Santa Barbara Rental Property Association
Small Business Action Committee
Sunstone Hotel Investors, Inc.
Superior Tank Wash Inc.
Silicon Valley Leadership Group
TechAmerica

Status:

Committee on Revenue & Taxation

Legislative Report Item 2

Action Item

[AB 2604 Brown \(D\) - Workers' compensation: proceedings: payment delay.](#)

Recommended action: **OPPOSE**

Presentation: Gene Wunderlich

Bill Summary:

Exposes Employers to Disproportionate Workers' Compensation Penalties. Dramatically increases penalties and costs for delayed payments and will result in disproportionate penalty awards that are significantly greater than the amount of the delayed payment. Additionally, **AB 2604** would unnecessarily add to the comprehensive workers' compensation statutory and regulatory penalty schemes. **AB 2604** has been labeled a **JOB KILLER** by the CalChamber, because it would increase litigation and drive up costs in California's workers' compensation system.

Background:

Existing law

- 1) Establishes a comprehensive system of workers' compensation benefits, including medical treatment, indemnity benefits for temporary and permanent disability, and death benefits, for workers whose injuries arise out of or in the course of employment.
- 2) Establishes a system to ensure that benefits to which an injured workers is entitled are provided in a timely manner, including detailed time frames that must be complied with in cases where disputes arise over whether the injured worker is entitled to the benefits being sought.
- 3) Provides that where payment of compensation has been unreasonably delayed or refused, the amount of the payment that was unreasonably delayed or refused shall be increased up to 25%, or up to \$10,000, whichever is less.
- 4) Provides that the WCAB shall use its discretion to accomplish a fair balance and substantial justice between the parties.

This bill increases the potential penalties that can be imposed on an insurer or employer if an unreasonable delay or denial of medical treatment results in a catastrophic injury or death to the injured worker. Specifically, this bill:

- 1) Provides that an unreasonable delay or denial of medical treatment required to be provided to an injured worker through the workers' compensation system that causes or results in a catastrophic injury, the Workers' Compensation Appeals Board (WCAB) may impose an award of up to \$100,000.
- 2) Adopts a definition of "catastrophic injury" by reference to an existing Labor Code Section that define the exceptions to limitations on psychiatric injuries that are compensable consequences of a primary injury. That provision provides that the limitation on psychiatric "add-ons" does not apply in cases where the injured worker's primary injury was a "catastrophic injury, including, but not limited to, loss of limb, paralysis, severe burn, or severe head injury."
- 3) Provides that an unreasonable delay or denial of medical treatment required to be provided to an injured worker through the workers' compensation system that causes or results in a death, the Workers' Compensation Appeals Board (WCAB) may impose an award of up to \$250,000
- 4) Requires the WCAB, in imposing these awards, to use its discretion to accomplish a fair balance and substantial justice under the circumstances of the case.

Argument in Favor:

For a work-related injury, the workers' compensation system is the injured worker's "exclusive remedy" to obtain treatment and other compensation. The complexity of the system, the author argues, frequently makes it difficult for injured workers to obtain the benefits to which they are entitled. While there are penalties for unreasonable delays or denials of benefits, the author believes that these penalties are not sufficient to cause insurers and other payors to act properly, and least not in all cases. The author points to a recent case where there was significant misbehavior that led to the death of the injured worker, and argues that where misbehavior has deadly or catastrophic consequences, the potential penalties should be higher than other cases.

Argument Against:

Romano case. One of the primary motivations behind the bill is a case, Romano v. Kroeger, in which a grocery store employee at a Ralph's store in southern California suffered an injury. In that case, the claims adjuster, for reasons difficult to explain, was quite hostile to authorizing treatment for Mr. Romano's injuries. In fact, according to the WCAB decision in the case, the adjuster ignored rulings by Workers' Compensation Judges (WCJs) even after Mr. Romano challenged denials and prevailed. His health status deteriorated significantly, and he required surgery. A surgery-based infection ultimately caused his death.

Proponents point to this case as an example where the penalties available under existing law were inadequate to incentivize proper behavior in approving treatment. The case involved behavior that was beyond the normal range of "unreasonable delay" and the consequences were undeniably catastrophic. The opposition acknowledges that the Romano case was a tragedy that should never happen, but point out that current law penalties are imposed on a "per act" basis. In fact, over \$260,000 in penalties were imposed in the Romano case, and not only was the adjuster fired, but the adjuster's supervisor was also fired. The opposition argues that changing the penalty laws will not change this sort of unusual abhorrent behavior, but will create litigation and other challenges in cases that do not present such clearly bad behavior.

Catastrophic injury. The bill, as proposed to be amended, applies only to death and catastrophic injury. The opposition fears that the bill's formulation of "catastrophic injury" will result in litigation, and tactical efforts to fit many injuries into this category. Opponents note two aspects of the proposed statute. First, the language addresses "unreasonable" delays or denials, and under current law, it does not take outrageous behavior to qualify as an unreasonable delay. Second, the definition of "catastrophic" will generate excess litigation, as claimants attempt to prove that any serious injury was catastrophic, and that some delay was the cause. This, they argue, turns the no-fault concept of workers' compensation on its head.

Support:

Voters Injured At Work (sponsor)
Association for Los Angeles Deputy Sheriffs
California Applicants' Attorneys Association (CAAA)
California Association of Professional Employees
Fraternal Order of Police
Long Beach Police Officers Association
Los Angeles Police Protective League

Los Angeles Probation Officers Union, AFSCME Local 685
Los Angeles Professional Peace Officers Association
Peace Officers Research Association of California
Riverside Sheriffs' Association
Sacramento County Deputy Sheriffs Association

Opposition:

Acclamation Insurance Management Services (AIMS)
Allied Managed Care Incorporated
ALPHA Fund
American Insurance Association
Association of California Insurance Companies
California Association of Joint Powers Authorities (CAJPA)
California Chamber of Commerce
California Coalition on Workers' Compensation
California Farm Bureau Federation
California Manufacturers and Technology Association
California Professional Association of Specialty Contractors
California Restaurant Association

California Special Districts Association
California State Association of Counties
Construction Employers' Association
County of Los Angeles
CSAC Excess Insurance Authority
CSG Associates, Inc.
Independent Insurance Agents and Brokers of California
Liberty Mutual Insurance
National Association of Mutual Insurance Companies
National Federation of Independent Business
Pacific Compensation Insurance Network
Republic Indemnity
Safeway
State Compensation Insurance Fund
The Zenith

Status:

Assembly Committee on Insurance, 2nd hearing cancelled at request of author.

Legislative Report Item 3**Action Item****[SB 1188 Jackson \(D\) - Consumers Legal Remedies Act: facts](#)**

Recommended action: OPPOSE

Presentation: Gene Wunderlich

Bill Summary:

SB 1188 represents an unwarranted Expansion of Product Defect Litigation. It may significantly increase product defect litigation and associated claims by allowing consumers to pursue claims after the warranty has expired for "material" omissions regarding the product that are unrelated to any health and safety concerns.

This bill codifies that, under the Consumer Legal Remedies Act (CLRA), fraud or deceit may consist of the suppression or omission of a material fact by one who is bound to disclose it or who gives information of other facts that are likely to mislead for want of communication of that fact. This bill specifies that a fact is material if a reasonable person attaches importance to its existence or nonexistence in determining a choice of action in a transaction, and that materiality is not limited to circumstances in which a product poses a threat to health or safety.

Background:

The CLRA is a consumer protection statute intended "to protect consumers against unfair and deceptive business practices and to provide efficient and economical procedures to secure such protection." Among other things, it prohibits merchants from representing that goods have "characteristics, ingredients, uses, benefits, or quantities which they do not have," or representing those goods "are of a particular standard, quality, or grade" when they are of another. Consumers who are harmed by unlawful practices specified in the CLRA have a right of action under the CLRA to recover damages and other remedies.

Passed by the Legislature in 1970, the CLRA is intended to be "liberally construed" by the courts and "applied to promote its underlying purposes." Courts have, until recently, allowed plaintiffs to bring CLRA claims based on allegations that a merchant fraudulently omitted to disclose a material fact in the course of a transaction, such as failing to disclose information about a product's known defects. However, following the decision in *Daugherty v. American Honda Motor Co., Inc.* (Cal.App.2d Dist. 2006), 144 Cal.App.4th 824, by a California Appellate Court, both federal and state courts are divided over whether claims can be brought under the CLRA for fraudulent omissions not involving threats to health and safety. This disagreement among the courts creates a situation where a court might find that the CLRA does not protect consumers from certain fraudulent business practices except in a narrow range of cases involving threats to health or safety. Consequently, manufacturers may potentially escape liability for concealing known product defects so long as the defect does not pose a safety risk to consumers.

Existing law:

1. Prohibits, under the CLRA, unfair methods of competition, acts or practices by any person which either results in/is intended to result in the sale or lease of goods or services to any consumer.
2. Enumerates several methods of unfair competition, acts, or practices, including:
 - A. Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they do not have; and
 - B. Representing that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another.
3. Provides that any consumer who suffers damage as a result of a practice declared to be unlawful under the CLRA may bring an action against that person to recover damages, as specified. Allows for a class action suit to be filed on behalf of a class of consumers adversely affected by an unfair method of competition, act, or practice.

4. Provides that the CLRA shall be liberally construed and applied to promote its underlying purposes, which are to protect consumers against unfair and deceptive business practices and to provide efficient and economical procedures to secure such protection.

This bill:

1. Specifies that, under the CLRA, fraud or deceit may consist of the suppression or omission of a material fact by one who is bound to disclose it or who gives information of other facts that are likely to mislead for want of communication of that fact.
2. Specifies that a fact is material if a reasonable person attaches importance to its existence or nonexistence in determining a choice of action in the transaction in question.
3. Specifies that materiality is not limited to circumstances in which a product poses a threat to health or safety.

ARGUMENTS IN SUPPORT: The author writes:

The Legislature passed the Consumer Legal Remedies Act (CLRA) in 1970. The Act prohibits sellers from making fraudulent claims about their goods and services, or from fraudulently withholding (omitting) information about goods and services from California consumers. From the consumer standpoint, the CLRA is one of the most important consumer protection statutes. It was designed to prevent unfair and deceptive business practices from taking hold in the marketplace.

Over the past eight years, a disagreement has developed among courts as to whether CLRA claims alleging fraudulent omissions are limited to matters involving safety hazards. As a consequence, consumers may be unable to rely on the CLRA to protect them from certain fraudulent business practices not involving safety risks. Without clarification of the CLRA from the Legislature, manufacturers can potentially escape liability for concealing known product defects so long as the defect does not pose a safety risk to consumers.

This bill would clarify that CLRA fraudulent omission claims are not limited solely to matters involving health and safety hazards, but rather include all cases where a merchant violates the Act by fraudulently failing to disclose a material fact. This clarification would ensure that the CLRA continues to broadly protect California consumers from deceptive business practices.

ARGUMENTS IN OPPOSITION:

Several entities in opposition argue that this bill unfairly exposes merchants to tort liability after the expiration of a product's express warranty. According to the California Chamber of Commerce, "This definition will significantly expand product defect litigation, especially class actions, as any alleged product defect will be deemed "material" once it has occurred, and the buyer will undoubtedly claim knowledge of this defect would have impacted the decision to purchase. Such an expansion of liability would render warranties absolutely meaningless, as all manufacturers and sellers would have to ensure the everlasting lifetime of a product."

SUPPORT: (Verified 5/7/14)

Consumer Attorneys of California (co-source)
Consumer Federation of California (co-source)
California Advocates for Nursing Home Reform
California Alliance for Retired Americans
California Conference Board of the Amalgamated Transit Union
California Conference of Machinists
California Public Interest Research Group
California Rural Legal Assistance Foundation
California Teamsters Public Affairs Council
Congress of California Seniors

Consumer Watchdog
Consumers for Auto Reliability and Safety
Consumers Union
Engineers and Scientists of California, IFPTE Local 20, AFL-CIO
International Longshore and Warehouse Union
Professional and Technical Engineers, IFPTE Local 21, AFL-CIO
Unite Here, AFL-CIO
Utility Reform Network
Utility Workers Union of America, Local 132

OPPOSITION: (Verified 5/7/14)

American Insurance Association
American International Group
Association of California Insurance Companies
California Automotive Business Coalition
California Building Industry Association
California Chamber of Commerce
California Citizens Against Lawsuit Abuse
California Grocers Association

California Manufacturers and Technology Association
California Pool and Spa Association
California Retailers Association
Civil Justice Association of California
International Franchise Association
National Federation of Independent Businesses
Personal Insurance Federation of California
Tech America

Status:

Referred to Committee on Judiciary, 3rd reading

Legislative Report Item 4**Action Item****[SB 1372 DeSaulnier \(D\) - Corporation taxes: tax rates: publicly held corporations.](#) S**

Recommended action: OPPOSE

Presentation: Gene Wunderlich

Bill Summary:

Increased Tax Rate. Threatens to significantly increase the corporate tax rate on publicly held corporations and financial institutions up to 15% according to the wages paid to employees in the United States, and threatens to increase that rate by 50% thereafter, if the corporation or institution reduces its workforce in the United States and simultaneously increases its contractors.

This bill would completely restructure the State's corporation tax; any related revenue estimate is subject to considerable uncertainty, and would depend on how corporations respond to the change in Corporation Tax Law. To the extent that corporations narrow the compensation spread between their highest paid employee and their median employee to a factor of 100 or less, their tax rate would fall below the current 8.84 percent, and revenues would thus be lower than what would occur on the natural.

Alternatively, if corporations do not change their compensation patterns, then their tax rate would increase, and corporation tax revenues could also increase, by hundreds of millions of dollars annually. To the extent that firms exit the State upon passage of the bill, revenues would decline.

FTB's duties with respect to tax administration of this proposal would be daunting. FTB would have to verify both compensation calculations for every corporation tax return filed to ensure the proper tax rate was used, which would likely necessitate major enhancements to its personnel and information technology systems. The related costs are currently unknown, but could be substantial.

Background:

California is one of 46 states to levy a broad-based tax on corporate profits, and its CT is the State's third largest source of General Fund revenues. In 2012-13, it raised \$7.5 billion, or 7.8 percent of total General Fund revenues. The CT applies to all corporations which earn income derived from, or that is attributable to, sources in California. Nonprofit corporations (such as churches and charitable organizations) are exempt, as are insurance companies (which instead pay a gross premiums tax).

Of the more than 700,000 corporations filing CT returns in California, only about 55 percent actually report profits, and thus, pay CT taxes. The remaining firms report losses, and thus, are subject only to the state's minimum tax. Those firms making profits are distributed among a variety of industry sectors.

The CT actually encompasses three different taxes—the corporate franchise tax, corporate income tax, and the bank tax. The corporate franchise tax is paid by most businesses in the State for the privilege of doing business in California, while the corporate income tax is paid by businesses which do not have sufficient presence or activity in the State for franchise tax purposes. The bank tax is paid by banks and financial institutions. All three components of the CT are assessed based on income. The corporate franchise tax is by far the most significant component. In 1997, the corporate franchise tax rate was 9.3 percent. In 1997, the rate was reduced to 8.84 percent. The corporate income tax rate is also set at 8.84 percent.

Corporate CEO compensation has increased sharply over the past few decades for a variety of reasons. The Bureau of Labor Statistics reports that the inflation-adjusted average annual salary for production workers in the United States went from \$18,187 to \$19,552 between 1990 and 2009 (in 1990 dollars), an increase of 7.5 percent. At the same time, the inflation-adjusted average annual compensation for CEOs has grown from \$2.9 million to about \$5.2 million, an increase of nearly 80 percent

Bill Summary: SB 1372 would modify the Corporation Tax (CT) by establishing a series of tax rates based on compensation ratio, as defined.

Proposed Law: SB 1372 would change California's corporation tax rate of 8.84 percent on publicly held corporations to a tax rate based on the salaries of each corporation's highest paid employee as compared to its median-salaried employee. Beginning in tax year 2015, the bill would impose a corporate tax rate ranging from 7 percent to 13 percent, based on "compensation ratio,"

If the compensation ratio is:

Over zero but not over 25

The applicable tax rate would be:

Over 25 but not over 50

7 percent upon the basis of net income

Over 50 but not over 100

7.5 percent upon the basis of net income

Over 100 but not over 150

8 percent upon the basis of net income

Over 150 but not over 200

9 percent upon the basis of net income

Over 200 but not over 250

9.5 percent upon the basis of net income

Over 250 but not over 300

10 percent upon the basis of net income

Over 300 but not over 400

11 percent upon the basis of net income

Over 400

12 percent upon the basis of net income

13 percent upon the basis of net income

Fiscal Impact:

The Franchise Tax Board (FTB) estimates that this bill would result in revenue gains of \$100 million in 2014-15, \$320 million in 2015-16, and \$340 million in 2016-17 (General Fund).

The FTB would incur increased administrative costs to incur the provisions of the bill. Specifically, the bill's requirements would impact FTB's programming, printing, processing, mailing, and storage costs for tax returns. These costs are currently unknown, but would likely amount to a minimum of low millions of dollars annually (General Fund).

Status:

Placed in **SUSPENSE** file.

Legislative Report Item 5

Action Item

[SB 994 Monning \(D\) - Vehicles: vehicle information: privacy.](#)

Recommended action: OPPOSE

Presentation: Gene Wunderlich

Bill Summary:

This bill requires, beginning in 2016, that motor vehicle manufacturers disclose whether vehicles they manufacture record, generate, store, or collect information about the driver and the vehicle, and requires motor vehicle manufacturers to allow the registered owner of the vehicle to opt out of the vehicle recording, generating, storing, or collecting information. The bill also requires vehicle manufacturers to provide a system for the registered owner to access this information.

Background:

Existing law (AB 213 [Leslie], Chapter 427, Statutes of 2003) requires that if a motor vehicle is equipped with one or more data recording devices (event recorder) for the purpose of retrieving data after an accident, then the vehicle manufacturer must disclose this fact in the owner's manual for the vehicle. In addition, only the registered owner of the vehicle may download or retrieve the data the event recorder collects, except another person may retrieve the data:

- with the owner's consent;
- pursuant to a court order;

- for the purpose of improving safety if the identity of the owner is not disclosed; or
- if the person is a licensed vehicle dealer or an automotive technician and needs the data to repair the vehicle.

Further, if the recording device records where the vehicle travels, steering performance, brake performance, and seatbelt use, and is part of a subscription service that includes transmitting the data when an accident occurs, then:

- The subscription agreement must disclose that the information is collected and can be transmitted.
- The privacy protections restricting use of the data described above do not apply.

This bill:

1. Defines “vehicle information” as any and all data that a motor vehicle records, generates, stores, or collects through a computer or other device embedded or integrated into the vehicle, other than an event recorder, that can by itself or with other information be used to distinguish or individually identify the registered owner of the vehicle, the driver, or the operation, use, or condition of the vehicle.

2. Finds that the law does not explicitly address who has the right to control the dissemination of consumer vehicle information, because no uniform standards or policies exist. To remedy this situation, the bill enacts the Consumer Car Information and Choice Act to apply to new vehicles sold or leased in California that are manufactured on or after January 1, 2016. If such a vehicle records, generates, stores, or collects vehicle information, then the manufacturer of a vehicle must:

Disclose that the vehicle records, generates, stores, or collects vehicle information and describe each of the types and duration of that information in a plainly written statement in the owner’s manual, as well as to prospective buyers on a separate document in 12-point type prior to purchase or lease, and finally affix the statement below in a clear and conspicuous manner to the side window or windshield of the new vehicle. The statement shall be in fourteen-point, bold type and read:

“THIS MOTOR VEHICLE RECORDS, GENERATES, STORES, OR COLLECTS INFORMATION ABOUT YOU, HOW YOU DRIVE, AND THE CONDITION OF YOUR MOTOR VEHICLE. UNDER CALIFORNIA LAW, YOU HAVE THE RIGHT TO ACCESS THIS INFORMATION AND TO OPT OUT OF THE COLLECTION OF THIS INFORMATION IN MOST CIRCUMSTANCES. YOU ALSO HAVE THE RIGHT TO CONSENT TO WHO MAY RETRIEVE THIS INFORMATION FROM YOUR MOTOR VEHICLE. BEFORE ALLOWING YOUR VEHICLE MANUFACTURER TO SHARE YOUR INFORMATION WITH THIRD PARTIES, YOU SHOULD CAREFULLY REVIEW EACH PARTY’S PRIVACY POLICY. ”

Provide, from the motor vehicle, the registered owner access to the vehicle information as it is recorded, generated, stored, or collected by the vehicle. Manufacturers may provide this access for purchase on fair and reasonable terms and the bill lists several guidelines as to what could be considered fair and reasonable.

Provide an owner with the ability to opt out of the recording, generation, storage, or collection of vehicle information other than that needed for the repair and maintenance of the vehicle or for motor vehicle safety. A manufacturer may not deny any service or benefit to a registered owner who opts out, unless that service or benefit is technically dependent on the vehicle information that is no longer recorded, generated, stored, or collected due to the opt out.

Not limit, impair, or otherwise restrict the ability of the registered owner to access his or her vehicle information. A manufacturer may not take any adverse action against a registered owner for accessing his or her vehicle

3. Prohibits downloading or retrieving vehicle information from a vehicle without the consent of the registered owner, except:

- by court order,
- by a repair shop,
- by the vehicle manufacturer, or
- by another motor vehicle or transportation infrastructure device for vehicle safety or traffic management purposes.

Neither a manufacturer nor a repair shop may sell, release, or otherwise disclose the vehicle information without the consent of the vehicle owner.

4. Precludes a vehicle manufacturer from conditioning a sale or lease of vehicle on receiving consent from the buyer to allow the manufacturer to sell, release, or otherwise disclose vehicle information to persons other than the registered owner.

5. Absolves a manufacturer of liability for any acts or omissions of a registered owner as a result of the manufacturer providing the owner with access to vehicle information.

6. States that its provisions should not be construed to require a manufacturer to disclose any trade secrets.

ARGUMENTS IN SUPPORT:

The author asserts that by 2025, all manufactured cars will have advanced electronics and onboard computing technology and that right now about one in five cars have advanced telematics and onboard computers that allow consumers to wirelessly communicate with devices and use geolocation systems to determine travel plans. These vehicles also contain sensors that record valuable diagnostic information about the cars' performance and the condition of the various parts of the cars. These new and ever-changing technologies have revolutionized how we interact with our cars and have become a major advantage to consumers. The proliferation of these computing technologies, however, and their ability to generate copious amounts of personal data, create a fundamental question about who has the basic right to control and access that information. The author introduced this bill to answer that question by creating safeguards that place the power and control of personal data in the hands of the consumer, and not the auto manufacturers.

As cars are rapidly morphing into computers with wheels, they are also producing data on the shape and condition of the car, how fast the car travels, use of the phone or radio, and even where and how often a car visits a specific location. As of today, the only entity that has access to that information is the auto manufacturer, and whatever third party to whom they choose to direct the information. This means that the consumer, who bought and paid for a durable good, has no control over the information that the product generates. This exclusive and unfettered control over a consumer's data creates not only an obvious privacy concern, but also a monopoly on information that stymies innovation of consumer-friendly products that can provide desirable services to the car owner

The current version of the bill establishes mandatory disclosure requirements, so that consumers are informed up front what information manufacturers are gathering from their vehicles and what is being done with it. The bill also limits automakers' ability to sell or transmit personal driver information to a third party without the owner's consent, as well as grants the owner the ability to restrict manufacturers from collecting personal vehicle data, unless it is information necessary for repair, maintenance, or vehicle safety. The author contends that the bill simply establishes safeguards where there are none, and reaffirms the fundamental right of a vehicle owner to have control over the information their vehicle creates.

2. Where does all this data go now? Vehicles increasingly collect data about themselves and then communicate that data in some fashion. This data is generally in a raw form that requires proprietary tools to download and interpret. It is currently unclear what is happening with the data that vehicles collect; and, no doubt, what is collected and how it is used is rapidly evolving. Some facts are clear, however, including that most vehicle buyers have no idea what data their vehicle generates, who has access to that data, and for what purposes it is used. The law appears to be silent as to who owns this data, but as of now, vehicle manufacturers are in control of it due to their knowledge of the technology installed on the vehicles they sell. It seems likely, given the significant trade and sale of personal data, that those with access to the data — mainly vehicle manufacturers and the telecommunications companies with which they work — may have an interest in retaining control over this data in order to profit from it. This bill attempts to provide consumers with some knowledge and some control over that data.

3. Which information? Some assert that a person's vehicle is often the most powerful computing device he or she possesses. As the makers of these devices, auto manufacturers, and those businesses with whom they contract, know and can alter what data a car produces, stores, and transmits. Consumers and other businesses do not. This bill therefore broadly defines vehicle information and then attempts to put registered owners in control of the information by allowing them to opt out of the vehicle's production, storage, and transmission of data and to access the data themselves from within the vehicle as it is being produced.

Vehicle manufacturers argue that the data is integral to the operation of the vehicle and therefore cannot be left to the control of the owner. Further, they and other opponents state that allowing access to that information by vehicle owners could result in significant harm, including odometer tampering, tracking of commercial vehicles, and tracking of a driver by an abusive registered owner.

The bill raises important issues: Who is the rightful owner of this data? If ownership is unclear, to what extent should the registered owner of the vehicle control the resulting data? What right to privacy does a driver have over the data? What proprietary rights do the manufacturers of vehicles, their components, and transmitters of the data have?

ARGUMENTS IN OPPOSITION:

Opponents assert that the bill is a deceptive single-company interest bill sponsored by AAA. They claim SB 994 will jeopardize consumer safety and security, stifle innovation, hinder continued investment in vehicle technologies, and be nearly impossible to implement, particularly the provisions requiring access to data and opting out of data

generation. They note specifically that requiring vehicle manufacturers and wireless providers to make all vehicle data instantaneously available to owners and drivers for download would make the vehicle and the related wireless network vulnerable to unauthorized access and would give unlimited access to proprietary systems within and outside of the vehicle. Auto and engine makers note that this third-party access to their systems could compromise vehicle function, including safety functions, and that a single vehicle could offer access into all vehicles that particular manufacturer makes. Because of these and other complex and controversial issues the bill raises, several opponents have asked that the committee refer this bill to interim hearing and have committed to participate fully in a serious examination of the issues raised by the bill.

Under the guise of being a pro-consumer bill, SB 994 (Monning) is nothing more than a means for AAA - the state's largest insurance network to share consumer data, including access to driving behavior relevant to insurance policies, with its 50 affiliates for their profit while at the same time threatening passenger safety and consumer privacy.

SB 994 is bad policy for California and even worse for California consumers because it jeopardizes vehicle security, personal privacy, and passenger safety. We don't need to look much farther than the front page of the newspaper to know data security is essential for consumers to have confidence in the systems of today's world.

Here are the top five things you need to know about SB 994:

1. **Puts Consumers at Risk:** SB 994 threatens personal safety and consumer privacy by requiring personal data and contact information be linked to auto-generated data previously linked only to a VIN. Detailed information about consumers, how they drive and where they go could be made available to outside parties without any clear privacy or security, use or retention data standards for the data recipient.
2. **Is Not About Car Repair:** Consumers can already forward maintenance-related vehicle data today to any repair vendor of their choosing. Data can be accessed via a factory-installed or a 3rd-party plug-in device through the onboard diagnostics (OBD) port located below the dashboard to provide needed repair information. Currently, 70% of post-warranty repairs are made by consumers and independent repairers who access that data.
3. **Freezes Innovation:** SB 994 threatens ongoing improvements to passenger safety in direct contradiction to the National Highway and Traffic Safety Administration's vision for the future. It would interfere with current auto industry efforts actively working with federal lawmakers (Sen. Schumer) and regulators (NHTSA) to establish national standards on consumer data. Allowing third parties in California to access auto data will complicate establishing national standards that will best protect consumers.
4. **Threatens Data Security:** Allowing third party access to data creates vulnerabilities to the increasingly interconnected network of cars. Cars communicate to each other now and soon all cars will be connected. This network of connectivity will provide unprecedented advances in safety and efficiency. A security breach of one consumer's car could extend to other autos that connect to it. It is irresponsible to jeopardize the security of this connected auto network.
5. **Jeopardizes consumer data.** In the wake of huge consumer retail data breaches, it is irresponsible to put consumer auto data at risk by making it available to third parties.

SUPPORT:

AAA of Northern California (sponsor)
Auto Club of Southern California (sponsor)
Autohaus
Automatic Labs, Inc.
Automotive Service Councils of California
Ayers Automotive Repair
Bridgestone Retail Operations
California Automotive Business Coalition
California Emissions Testing Industry Association
California Small Business Association
California Tow Truck Association
Clark Motors, Inc.

Glendora Chamber Legislative Committee
Hispanic 100
Independent Automotive Professionals Association
Latin Business Association
National Insurance Crime Bureau
Quality Tune Up Shops (Side B Corporation)
Regional Black Chamber of Commerce — San Fernando Valley
Stil-Mor Automotive
Village Automotive Repair
Hon. John Whitfield, Waterford City Council Member

OPPOSITION

AT&T
Alliance of Automobile Manufacturers

Association of Global Automakers
Automotive Service Association

California Association of Highway Patrolman
Civil Justice Association of California
California Manufacturers and Technology
Association
California New Car Dealers Association
California Truck and Engine Manufacturers
Association
CTIA — The Wireless Association
Daimler
General Motors

Motor & Equipment Manufacturers Association
NAACP — California State
Peace Officers Research Association of California
Sirius XM
Tech Net
Truck and Engine Manufacturers Association
UAW Region 5
Verizon
WEAVE

Status:

Senate Committee on Transportation & Housing. **Failed** but with reconsideration.

Legislative Report Item 6	Action Item
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[AB 1531 Chau \(D\) - Charter schools: operating as or by a nonprofit public benefit corporation.](#) S

Recommended action: OPPOSE

Presentation: Gene Wunderlich

Bill Summary:

Directed at Charter Schools, **AB 1531 moves control of High Tech high schools and other charters k-12 under regular school districts.** The bill purports to be an IRS retirement issue but really impacts curriculums taught, unionization, and ability of high tech companies such as Abbott, Qualcomm, Northrup Grumman to help develop future tech students. AB 1531 has the potential to negatively impact on future workforce development.

Background:

A charter school is a public school that may provide instruction in any of grades K-12. It is usually created or organized by a group of teachers, parents and community leaders or a community-based organization. A charter school may be authorized by an existing local public school board, county board of education (COE), or the State Board of Education (SBE). Existing law requires a potential charter school to submit a petition to a governing board or SBE for approval to establish the school.

In November 2011, the United States Internal Revenue System (IRS) issued an advance notice of rulemaking to solicit feedback from affected parties as it developed proposed regulations to define the term "governmental plan" for purposes of special tax eligibility. CalSTRS and CalPERS are governmental plans impacted by this rulemaking. Under the IRS proposed regulations, all individuals who benefit from one of these state retirement systems would have to be employed by a governmental entity, such as the state, an elected school board, or the federal government. Additionally, no private interests may benefit from these tax rules extended only to employees of the government.

Purpose. This bill is in response to recent Internal Revenue System (IRS) proposed regulations and subsequent response by the California State Teachers Retirement System/California Public Employees Retirement System (CalSTRS/CalPERS) to potentially exclude charter schools from the retirement system because nonprofit charter schools do not meet the "tests" that qualify the school as a governmental entity. One such test is whether the governing body is elected or appointed by elected officials. According to the sponsor, the California Teachers Association, charter school employees are part of the public education system and should be treated equitably by receiving the protections and benefit plans afforded to all public educational employees, including participation in CalSTRS.

This bill seeks to correct the exclusion of charter schools from CalSTRS/CalPERS by requiring nonprofit charter schools to have a majority of their governing body members appointed by the chartering authority, which is generally an elected board.

This bill requires charter schools operated as a nonprofit public benefit corporation to nominate in the charter petition, twice the number of people needed for their board of directors, and requires the chartering authority to appoint a majority of the members of the board of directors for these charter schools. Specifically this bill:

- 1) Requires the initial chartering authority of a charter school that elects to operate as a nonprofit public benefit corporation to appoint a majority of the members of the board of directors of the nonprofit public benefit corporation from persons publicly nominated in the charter petition, charter renewal, or material revision application. The number of persons nominated shall be twice the total number of members that comprise the board of directors. Authorizes the chartering authority to one member on the board of directors, though the majority calculation required shall not include the representative appointed by the chartering authority.
- 2) Requires the initial chartering authority, during the term of the charter, to ensure that a majority of the members of the board of directors of the nonprofit public benefit corporation are members appointed by the chartering authority and sets forth process for replacement of members, as necessary.
- 3) Authorizes the charter school to use an election process or community involvement process to select nominees for the board.
- 4) Requires a charter petition to include a reasonably comprehensive description of the names and background information for all persons whom the petitioner nominates to serve on the board of directors of that nonprofit public benefit corporation.

Arguments in Opposition.

The California Charter School Association (CCSA) opposes the bill, citing concerns that the **independence of the charter school would be compromised.** They are concerned "operating under the de facto control of the school board that authorized the charter would reflect the interests of the school district's central governing board, not the community from which the charter school sprung." Further, **CCSA contends CalPERS "acted precipitously and unilaterally by beginning to reject new charter school applications, even though the IRS has changed no regulation regarding the eligibility of charter schools for public pension programs. CalSTRS and every other public pension fund in the country that has charter schools as members have made no change in their practice and continue to include charter schools as eligible employees."**

Status:

Senate Appropriations (currently in **suspense**)

Legislative Report Item 7	Action Item
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[SB 1446 DeSaulnier \(D\) - Health care coverage: small employer market.](#)

Recommended action: **SUPPORT**

Presentation: Gene Wunderlich

Bill Summary:

Small Employer Coverage. **Helps small employers control their health care costs by allowing them to extend their pre-ACA health care policies through December 31, 2015.**

Authorizes a small employer health plan or health benefit plan (another name for health insurance policy) in effect on October 1, 2013, and renewed by December 31, 2013, that does not qualify as a grandfathered health plan or health benefit plan, to avoid compliance with specified provisions of the Affordable Care Act (ACA) and related state law, and, be renewed until October 2016, at which time compliance with the ACA and state law is required. Contains an urgency clause that will make this bill effective upon enactment.

Background:

Existing law:

1. Regulates health plans through the Department of Managed Health Care (DMHC) and health insurance policies through the California Department of Insurance (CDI). Health plans include Health Maintenance Organizations (HMOs) and some Preferred Provider Organizations (PPOs). Health insurance policies include PPOs, but not HMOs.

2. Requires on or after October 1, 2013 a non-grandfathered plan or insurer to fairly and affirmatively offer, market, and sell all of the plan's small employer health plan contracts and insurance policies for plan years on or after January 1, 2014 to all small employers in each service area in which the plan provides or arranges for health care services. This is referred to as "guarantee issue."
3. Prohibits a plan or insurer from rejecting an application from a small employer for a small employer health plan contract or insurance policy if certain conditions are met.
4. Requires health plans and health insurers to consider as a single risk pool for rating purposes the claims experience of all insureds and enrollees in all non-grandfathered health benefit plans in this state, whether offered as a health plan contract or health insurance policy, including those insureds and enrollees who enroll in individual coverage through Covered California and enrollees and insureds outside of Covered California. This requirement applies separately for individual market products and small group products.
5. Requires the premium rate for a small employer health plan or insurance policy issued, amended, or renewed after January 1, 2014 to vary only by age, not more than three to one for like individuals of different ages, as specified, geographic region, as specified, and whether the contract or policy covers an individual or family, as specified.
6. Requires individual and small group health plans and insurance policies issued, amended, or renewed, on or after January 1, 2014, to cover at a minimum, essential health benefits (EHBs) as specified in state and federal law.
7. 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 (OOP) expenses for all covered benefits that meet the definition of EHBs, including out-of-network emergency care, as specified.
8. Requires the maximum OOP limit to apply to any copayment, coinsurance, deductible and any other form of cost sharing for all covered benefits that meet the definition of EHBs.
9. Requires the limit, described in 8) above, to result in a total maximum OOP limit for all EHBs equal to the dollar amounts in effect under the Internal Revenue Service, as specified, as adjusted by the ACA, as specified.
10. Prohibits small employer health plan contracts and insurance policies offered, sold, or renewed on or after January 1, 2014 from containing deductibles that exceed \$2,000 for a single individual and \$4,000 for any other plan contract or policy.
11. Defines levels of coverage for the non-grandfathered small group market as Bronze, Silver, Gold, Platinum, as specified.
12. Establishes premium rate rules for small employer health plan and insurance contracts including, that effective July 1, 1996, the employee risk adjustment factor may not be more than 110 percent or less than 90 percent, and requires plans and insurers to apply standard employee risk rates consistently with respect to all small employers.

This bill:

1. Authorizes a small employer health plan or health benefit plan in effect on October 1, 2013, including those renewed by December 31, 2013, and still in effect as of the effective date of this bill, that does not qualify as a grandfathered health plan or health benefit plan, to be renewed until October 2016, and continue to be in force until after September 30, 2017, subject to applicable federal law, and any other requirements imposed by this bill.
2. Authorizes a small employer health plan contract or health benefit plan described in 1) above, to continue to be in force after September 30, 2017, if the contract or plan is amended to comply with all of the provisions, listed in 4) below, by October 1, 2017, and if the contract or plan complies with all other applicable provisions of law.
3. Requires, prior to renewing a small employer health plan contract or health benefit plan pursuant to 1) above, the health plan or health benefit plan to provide notice to the group contract holder regarding the option to renew coverage using a specified notice issued by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) on March 5, 2014.
4. Exempts a small employer health plan contract or health benefit plan, described in 1) above, from the following provisions in existing California law:
 - a. Requirements to guarantee issue;
 - b. Prohibitions against rejecting applications;
 - c. Requirements for a single risk pool;
 - d. Rating limitations associated with age, family size, and geographic regions;

- e. Requirements to provide EHBs;
 - f. Maximum limitations on OOP expenses and deductibles; and,
 - g. Definitions on levels of coverage and actuarial value.
5. Requires a small employer health plan contractor health benefit plan, pursuant to 1) above, to be subject to risk adjustment factors of not more than 110 percent and not less than 90 percent and consistent employee risk rates with respect to all small employers. Requires the small employer health plan contract or health benefit plan to continue to be subject to all other requirements on non-grandfathered small employer plans and the Knox-Keene Act or laws applying to life and disability insurance.
6. Requires, no later than October 1, 2017, a small employer health plan contract or health benefit plan to be amended to comply with the provisions, described in 4) above.
7. Defines a small employer health plan contract as a group health care service plan contract other than a specialized health plan, issued to a small employer, as defined.
8. Defines a health benefit plan as a policy of health insurance, as defined, for the covered eligible employees of a small employer and their dependents. The term does not include coverage of Medicare services pursuant to contracts with the United States government or coverage that provides excepted benefits, as specified.
9. Contains an urgency clause that will make this bill effective upon enactment.

Arguments in FAVOR:

Author’s statement. According to the author, state law is not consistent with the ACA transition policy announced by President Obama, which can lead to consumer confusion and policyholders asking why they aren’t allowed to keep their existing health insurance coverage that their employees are happy with when the President announced that they may do so. A significant percentage of small business owners will choose to move to ACA compliant products by the end of 2014, but this bill allows those who wish to avail themselves of President Obama’s transition policy to do so.

CDI sponsors this bill to allow pre-2014 nongrandfathered small group policies that were sold or renewed in 2013 to be renewed through October 1, 2016. CDI writes that plans subject to this transitional policy would continue to be subject to existing small group law regarding premiums, risk adjustment factors, and standard employee risk rates; other provisions of existing law, including the prohibition against the use of preexisting condition or waived condition provisions, the prohibition against establishing rules for eligibility based on health status-related factors, waiting periods and disclosure requirements for solicitation, and sales materials.

Arguments in OPPOSITION:

A number of employer groups, including the Silicon Valley Leadership Group, Small Business California and the Los Angeles Area Chamber of Commerce write that this bill could considerably disrupt the small employer health insurance market by fracturing the small group market with some plans complying with the ACA and others operating under a different set of rules. These employer groups write that this undermines the goals of the ACA and could create instability, leading to higher premiums for business.

The Small Business Majority opposes this bill because it would roll back existing state law by removing protections for the 2.5 million small business owners and employees who purchase health coverage in the small group market. The Small Business Majority writes that as of January 1, 2014 state law provides additional protections to our state’s small entrepreneurs by guaranteeing the health insurance products they purchase meet minimum standards, contain limits on out-of-pocket costs and fit into standardized “metal tiers” that provide more transparency when shopping for insurance. This bill proposes to undo these improvements already in effect for small businesses and their covered employees and delay these provisions until 2017.

Support:

California Department of Insurance (sponsor)
 Associated Builders and Contractors of California
 California Asian Pacific Chamber of Commerce
 California Association of Health Underwriters
 California Chamber of Commerce

California Manufacturer and Technology Association
 California Restaurant Association
 California Small Business Association
 Health Net
 Independent Agents and Brokers of California

National Association of Insurance and Financial
Advisors – California

National Federation of Independent Businesses

Oppose:

American Federation of State, County and Municipal Employees, AFL-CIO
Consumers Union
Health Access
Small Business Majority

Status: Senate Appropriations

Why Manufacturing is Critical to California's Economy

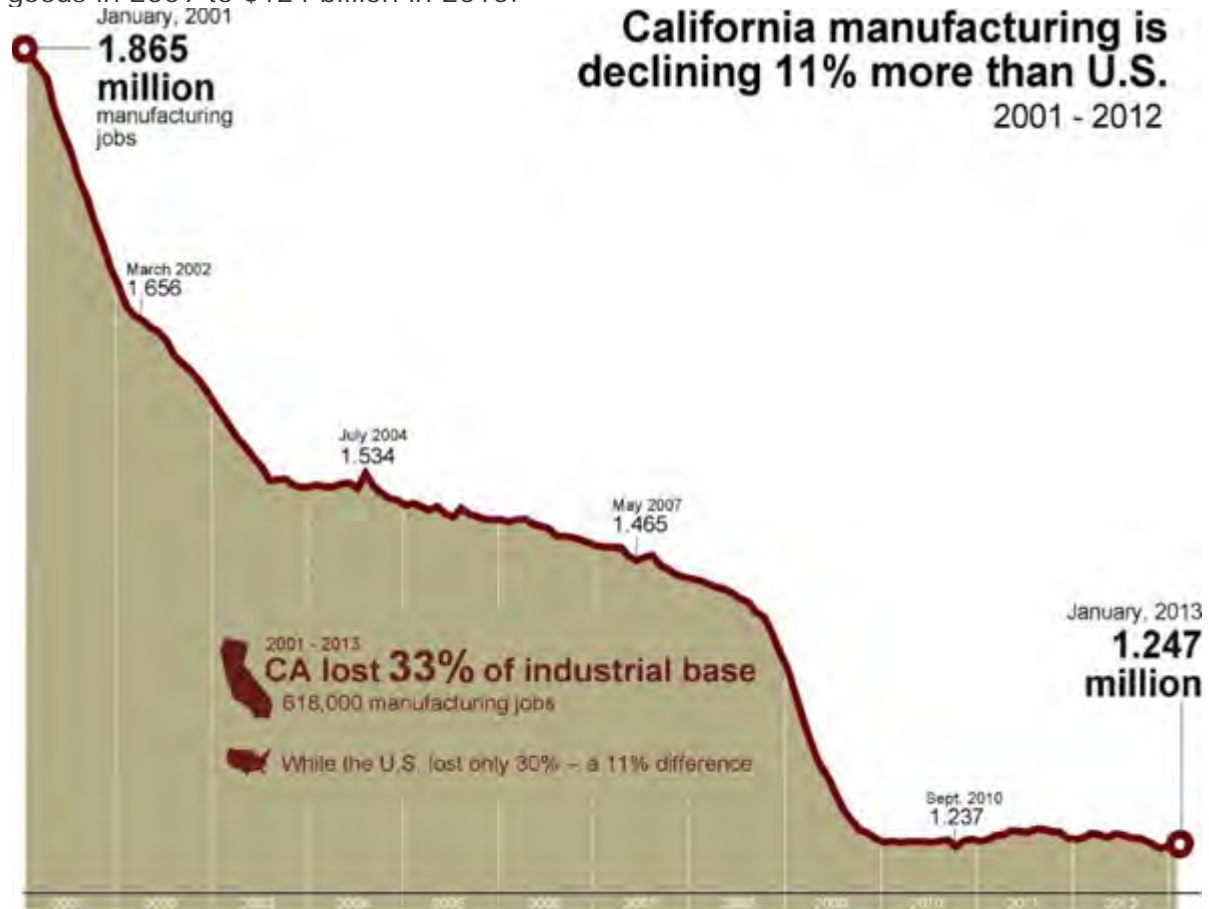
Feb 27, 2014 by [Michele Nash-Hoff](#) in [Inside California Manufacturing](#)

- California is ranked #1 in the US for manufacturing jobs, firms and output
- Manufacturers in the state face challenges including a complex regulatory climate
- Four policy changes could improve the business climate

For every one job created in manufacturing, at least two to three jobs are created to support the sector. Further, manufacturing firms create regional wealth by producing a product that is exported to other states and countries. This attracts additional funds to the region — creating business, individual and community wealth. Because of this ripple effect, manufacturing firms have a deeper impact on the state of the economy than most other industries.

California is the [number one](#) state for manufacturing jobs, firms and output – accounting for 11.7% of the total U. S. output, and employing 9% of the U. S. manufacturing workforce. California manufacturing generates \$229.9 billion, more than any other state. Manufacturing is California’s most export-intensive activity contributing significantly to California's \$159 billion in exports in [2011](#). Overall, manufacturing exports represent 9.4% (\$120 billion in goods) of California’s GDP, and computers and electronic products constitute 29.3% of the state’s total manufacturing exports. More than one-fifth (21.9%) of all manufacturing workers in California directly depend on exports for their jobs.

Since January 2001, the manufacturing sector lost 33% of its job base, down from 1.86 million jobs in 2001 to 1.237 million jobs in 2010. In 2010, the manufacturing sector began adding employment, regaining 7,900 jobs. California exports have also increased — up from \$104 billion of manufactured goods in 2009 to \$124 billion in 2010.



Source: California EDD, Labor Market Information Department. Chart: CA Manufacturers & Technology Assn.

A 2011 [report](#) by the Center for Applied Competitive Technologies (CACT) at El Camino College and the Center Of Excellence (COE) of the Los Rios Community College District identified the following 17 cluster industries in California:

- Aerospace Manufacturing
- Biotechnology, Medical Devices, & Pharmaceutical Manufacturing
- Building Materials Manufacturing
- Chemical Manufacturing
- Computers/Electronics Manufacturing
- Dental Equipment, Supplies & Laboratories Manufacturing
- Fashion/Clothing Manufacturing
- Furniture Manufacturing
- Household Products Manufacturing
- Machinery Manufacturing
- Metals Manufacturing
- Paper Products Manufacturing
- Petroleum Manufacturing
- Plastic Products Manufacturing
- Printing and Publishing
- Transportation Manufacturing

The report states, “With the exception of food manufacturing, biotechnology, dental equipment, and petroleum, nearly every manufacturing cluster in California has shed jobs over the last five years [2006-2011.] Building materials lost the most jobs with a decline of 32%, followed by printing (22%), and computers/electronics (10%).”

Challenges Facing CA Manufacturers

The report states that the “manufacturing sector must address a variety of challenges, from navigating a complex regulatory environment to developing strategies to compete with low cost economics. There are a number of factors that have inhibited the manufacturing sector’s ability to compete locally and internationally.” Some of these challenges are:

- California’s regulatory climate is difficult, expensive and time consuming to navigate
- Higher health care expenditures compared to countries where health care is paid for by general tax revenues
- Higher salaries and other benefits, such as paid leave, insurance, and retirement plans
- Higher costs associated with litigation claims
- Higher costs associated with environmental compliance;
- Higher corporate tax rates than most other countries (the United States’ tax rate is 40%, the second highest tax rate among major trading partners.)

Opportunities

Competition from low-cost economies, such as China, India, Singapore, South Korea, Thailand, and Vietnam, is one of the major challenges faced by the manufacturing sector. However, the total cost of outsourcing to other countries is often miscalculated. According to the [Reshoring Initiative](#), the true cost of manufacturing outside of the United States does not include costs associated with:

- National policy issues (trade negotiations, etc.)
- Changes in currency exchange rates
- Intellectual Property theft
- Supply chain disruptions
- Lengthy delivery times
- Traveling to the manufacturing site to assess and resolving production issues

Further, in the last few years many countries have started to raise their prices to adjust for increases in wages and higher transportation/fuel expenses. By examining the total cost of outsourcing, the Reshore Initiative argues that hiring local production firms is just as price sensitive as hiring firms from low-cost economies. Also, there are several benefits to working local, such as:

- Improved quality and consistency of inputs
- Ability to create just-in-time operations that reduce inventory and shipping costs and improve business-to-business relations
- Intellectual property security
- Faster delivery to customers

As this viewpoint has gained popularity, it has started to shift production back to the United States, creating jobs and wealth in the process. By 2013, the Reshoring Initiative estimated that about 80,000 jobs returned to the United States by reshoring, about 15% of the nationwide increase of 526,000 jobs since 2010.

Four Recommendations to Improve the Business Climate

For several years, I have been writing about my own prescription for what needs to be done to improve California's business climate. Here are my top four suggestions:

- Lower taxes - reduce the corporate and personal income tax rates by about three to four percent, to be competitive with other states.
- Restore the capital equipment investment tax credit - the legislature repealed the capital equipment investment tax credit in 2003, which penalized companies for investing in the future.
- Reform workers' compensation to address the issues of fraudulent claims and frivolous lawsuits and reduce workers' compensation rates. Even after the reforms in 2004, California still has the 6th highest rate nationwide.
- Eliminate burdensome regulations on small businesses

We need to make some drastic changes in California's business climate so that we can eliminate barriers to success and create incentives for production in California, encourage growth, and maintain as much as possible of our manufacturing base in California. If business and government would work together, we could restore California to the Golden State it once was.

drought 2014:

What you **need** to know.

Water conservation is always important in California, but this year we can't afford to waste any water. **We all need to do our part.**

the facts:

- ▲ In 2009, a California law was passed requiring a 20% reduction in water use by 2020.
- ▲ To achieve this reduction, another law was passed to require efficient water fixtures in all homes.
- ▲ As of 2009, the following "noncompliant" plumbing fixtures must be changed out:
 1. Any toilet manufactured to use more than 1.6 gallons of water per flush.
 2. Any showerhead manufactured to have a flow capacity of more than 2.5 gallons of water per minute.
 3. Any interior faucet that emits more than 2.2 gallons of water per minute.
 4. Any urinal manufactured to use more than one gallon of water per flush.

water laws you need to know:

- ▲ California state law requires ALL single-family homes to have all noncompliant plumbing fixtures retrofitted with more efficient models by 2017. The law applies now for any current remodels or home alterations.
- ▲ The law requires, beginning January 1, 2017, that a seller or transferor of most types of real property to disclose to a purchaser or transferee, in writing, the requirements for replacing plumbing fixtures, and whether their real property includes noncompliant plumbing.
- ▲ Land use planning laws require builders to ensure an adequate 20-year water supply for all new housing. Without conservation, there will not be adequate water for new construction.

for more information, visit:

Save Our Water (www.saveourh2o.org)

California's Official Drought Information Portal (<http://ca.gov/drought/>)

California Department of Water Resources (www.water.ca.gov)

Association of California Water Agencies (www.acwa.com)



Contact your city, county, or local water agency to find out more about any additional rules, rebates, or financing programs that may apply to you.

For information purposes only. Those with specific legal questions should seek the advice of an attorney.

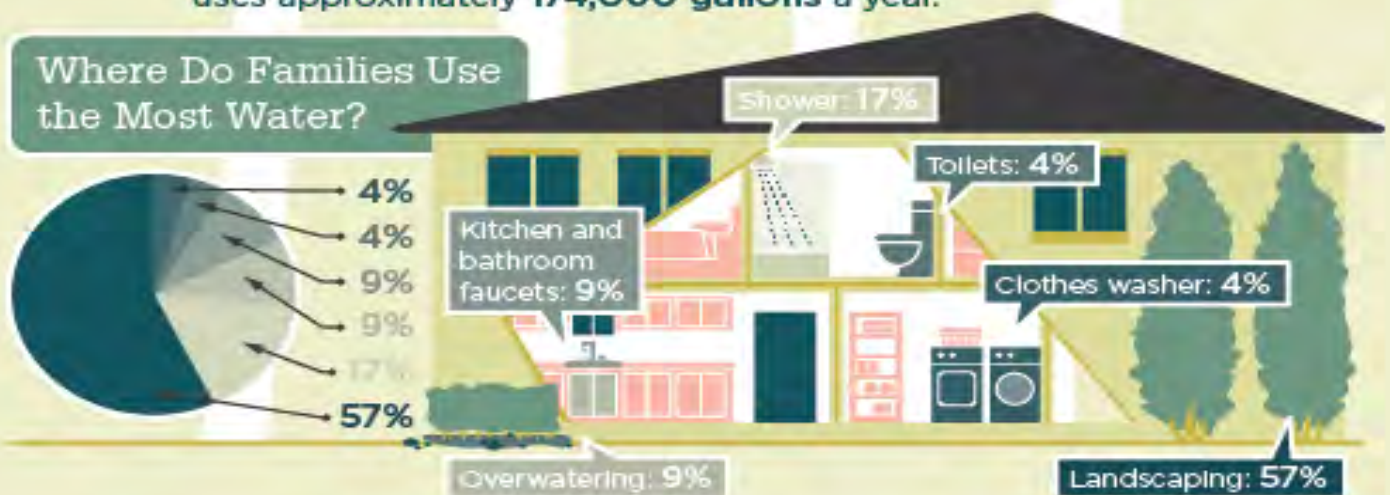
Southwest California Legislative Council

THE WATER CRISIS

Where Are We Wasting?

A typical three-bedroom, single-family home in California uses approximately **174,000 gallons** a year.

Where Do Families Use the Most Water?



Water-Saving Solutions

💰 = \$10 💧 = 1 gal.



Low-flow Toilet

Cost: \$60-\$200



Saves:
6.4 gallons per flush



Faucet Aerators

Cost: \$2

Saves:
1.5 gallons per minute



Low-flow Shower Head

Cost: \$10-\$40



Saves:
2.5-3.5 gallons per minute



Important Water-Saving Legislation

California Senate Bill 407

By Jan. 1, 2017, all residential properties in California that were built prior to 1994 will be required to retrofit with:

- Toilets that use no more than 1.6 gallons per flush
- Shower heads with flow rates of no more than 2.5 gallons per minute
- Other interior fixtures that use less than 2.2 gallons of water per minute

Source: California Homebuilding Foundation

