MEETING AGENDA
Monday April 20, 2020
Realtor House, 26529 Jefferson Ave, Murrieta

Presiding: Adam Ruiz, Chair

2020 Strategic Initiatives
Budget & Tax Reform / Job Creation and Retention / Healthcare / Infrastructure & the Environment/ Public Safety

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

Chair Report

Approval of Minutes — **Action**

2020 Legislative Report #4 — **Action**

1. Ab 828 (Ting) Temporary Moratorium On Foreclosures And Unlawful Detainer Actions: *Coronavirus*
2. Ab 1947 (Kalra) Employment Violation Complaints: Requirements: Time
3. Ab 2019 (Holden) Pupil Instruction: College And Career Access Pathways Partnerships: County Offices Of Education
4. Ab 2143 (Stone) Settlement Agreements: Employment Disputes
5. Ab 2570 (Stone) False Claims Act
6. Ab 2920 (Obernolte) Hazardous Waste: Transportation: Consolidated Manifesting Procedures
7. Sb 986 (Allen), Coastal Resources: New Development: Ghg Emissions
8. Sb 1084 (Umberg) Pharmacy: Dispensing: Controlled Substances
9. H.R.6467 - Coronavirus Community Relief Act

Guest speaker — **Paul Nolta, Inland Empire SBDC with SBA update** — **Information**

Lunch sponsor — **Your Kitchen** — **Thank you**

Speaker and Chamber Announcements — **Information**

Adjourn – Next Meeting May 18

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The Southwest California Legislative Council Thanks Our Partners:

Southwest Riverside Country Association of Realtors
Metropolitan Water District of Southern California
Elsinore Valley MWD
Western MWD
CR&R Waste Services
Abbott Vascular

Temecula Valley Chamber of Commerce
Murrieta/Wildomar Chamber of Commerce
Lake Elsinore Valley Chamber of Commerce
Menifee Valley Chamber of Commerce
Southwest Healthcare Systems

Temecula Valley Hospital
Economic Development Coalition
The Murrieta Temecula Group
Southern California Edison
The Gas Company
California Apartment Association
Western Municipal Water District

Lake Elsinore Chamber of Commerce
Menifee Valley Chamber of Commerce
Murrieta/Wildomar Chamber of Commerce
Temecula Valley Chamber of Commerce

Meeting Minutes

Monday, March 16, 2020

2020 Chair: Adam Ruiz

Legislative Consultant: Gene Wunderlich

Due to heightened concern over the COVID-19 virus, pending shelter-in-place mandates, and group size restrictions (it was still 100 people at that time), in 'an abundance of caution' (I hope never to use that phrase again once this is over), the ***SWCLC*** made the determination to cancel our March 16 live meeting. Votes were solicited via email and a majority ratified the recommended positions as follows:

1. **AB-2013 (Irwin) Property taxation: new construction: definition. SUPPORT**
2. **AB-2043 (Gonzalez) Unlawful business practices: employer liability: contracted supervisor. OPPOSE**
3. **AB-2149 (Gonzalez) Data sharing: food delivery platforms. OPPOSE**
4. **AB-2712 (Low) California Universal Basic Income (CalUBI) Program OPPOSE**
5. **SB-873 (Jackson) Gender: discrimination: pricing. OPPOSE**
6. **SB 806 (Grove) Worker status: *employees:* independent *contractors.* SUPPORT**
7. **AB 2465 (Gonzalez) Worker status: independent contractors: barbering and cosmetology. SUPPORT**
   a) **AB-2489 (Choi) Worker status: employees: independent contractors: franchiser and franchisees. SUPPORT**
   b) **AB 2458 (Melendez) Worker status: independent contractors: physical therapists. SUPPORT**
   c) **AB 2497 (Bigelow) Worker status: independent contractors: *livestock judges.* SUPPORT**
   d) **AB 2822 (Waldron) Worker status: independent contractors: transportation network companies. SUPPORT**
   e) **AB-3281 (Brough) Worker status: independent contractors: business-to-business contracting relationship. SUPPORT**

The plan was to have the legislature reconvene on April 20 but as of today that looks unlikely. There is much discussion about what the foreshortened session will look like –whether legislators will confine themselves to addressing economic recovery issues to the exclusion of other items, or whether they will forge ahead with their agenda while amending or adding 'emergency' measures.

Regardless of the path they choose, our advocacy efforts will remain in place as our business community will need every assist they can get if they are going to survive this economic shutdown.

Legislative Item #1 **Action**

AB 828, as amended, Ting. ~~Human trafficking caseworker-victim privilege.~~ *Temporary moratorium on foreclosures and unlawful detainer actions: coronavirus (COVID-19).*

Introduced by Assembly~~-~~ Members Ting, Gipson, and Kalra
(Principal coauthor: Senator Wiener)
(Coauthors: Assembly Members Bonta, Burke, Gonzalez, Kamlager, and Mullin)
(Coauthor: Senator Skinner)

Recommended action: OPPOSE
Presentation: Gene Wunderlich

Summary:

The CARES Act provides for an eviction moratorium for both property owners and tenants. As of 4/4/2020, 31% of tenants across the county have not paid their rent for the month of April. Yet even that Act does not cover all exigencies or protections, especially for landlords. The Act allows tenants to withhold rents for a period of 120 days, with extensions, simply by providing a 7 day notice. The question of repayment of that arrearage is left open between tenant and landlord whether it's to be a balloon payment, increased rent paid across some number of months or deferred to some future date.

AB 828 takes those provisions a step further by placing an eviction moratorium not to expire until 15 days from end of the declared emergency for both property owners and tenants. While that ends the specificity for property owners, the bill proposes significant additional protections for tenants to the detriment of landlords and property owners. For example, rather than simply requiring a 7 day notice by the tenant, AB 828 requires an intervention by the courts to determine validity of the claim and determine hardship to both tenant and landlord. If the landlord has 1 or 2 rental properties it may be presumed to be a hardship but if they own 10 or more, it would not be. If a hardship is declared by the courts in favor of the tenant due to increased costs or decreased pay as a result of the Coronavirus, no eviction proceeding may commence until 15 days from the end of the emergency declaration.

Following that, rent for the rental property at issue shall be reduced by 25 percent for the next 12-month period. The tenant shall make monthly payments to the landlord beginning in the next calendar month, (whether the next calendar month following the end of the emergency, or the end of the 12 month rent reduction period is unclear). At such time as full rental payments are due, the tenant will adjust their payment to include an additional 10% of the unpaid rent owing at the time of the order, excluding late fees, court costs, attorney fees, etc.

Ting's proposal ignores the robust rent and eviction controls already in place across California. It provides no assurances that landlords can collect rent, remove problem tenants, or get a fair hearing in the court system.

Description:

Existing law *confers a power of sale upon a mortgagee, trustee, or any other person to be exercised after a breach of the obligation for which the mortgage or transfer is a security. Existing law requires a trustee, mortgagee, or beneficiary to first file a record in the office of the recorder a notice of default, and establishes other requirements and procedures for completion of a foreclosure sale.*

This bill *would prohibit a person from taking any action to foreclose on a residential real property while a state or locally declared state of emergency related to the COVID-19 virus is in effect and until 15 days after the state of emergency has ended, including, but not limited to, causing or conducting the sale of the real property or causing recordation of a notice of default.*

Existing property tax *law attaches taxes that are owed on that property as a lien against that property. Existing law generally requires the tax collector to attempt to sell residential property that has become tax defaulted 5 years or more after that property has become tax defaulted.*

This bill *would require a tax collector to suspend the sale, and not attempt to sell, tax-defaulted properties while a state or locally declared state of emergency related to the COVID-19 virus is in effect and until 15 days after the state of emergency has ended.*

Existing law *requires a county recorder to record any instrument, paper, or notice that is authorized or required to be recorded upon payment of proper fees and taxes.*

This bill *would prohibit a county recorder from recording any instrument, paper, or notice that constitutes a notice of default, a notice of sale, or a trustee's deed upon sale during the above-specified declared state of emergency relating to the COVID-19 virus. The bill would also prohibit a court from accepting a complaint in an action to foreclose.*

Existing law *establishes a procedure, known as an unlawful detainer action, that a landlord must follow in order to evict a tenant. Existing law provides that a tenant is subject to such an action if the tenant continues to possess the property without permission of the landlord in specified circumstances, including when the tenant has violated the lease by defaulting on rent or failing to perform a duty under the lease.*

This bill *would prohibit a state court, county sheriff, or party to a residential unlawful detainer case from accepting for filing, or taking any further action including executing a writ of possession or otherwise proceeding with an unlawful detainer action during the timeframe in which a state of emergency related to the COVID-19 virus is in effect and 15 days thereafter, except as specified.*

The bill *would also authorize a defendant, for any residential unlawful detainer action that includes a cause of action for a person continuing in possession without permission of their landlord, to notify the court of the defendant's desire to stipulate to the entry of an order. The bill would require the court, upon receiving that notice from a defendant, to notify the plaintiff and convene a hearing to determine whether to issue an order, as specified. The bill would require the court, if it determines that the tenant's inability to stay current on the rent is the result of increased costs in household necessities or decreased household earnings attributable to the COVID-19 virus, to make an order for the tenant to remain in possession, to reduce the rent for the property by 25% for the next year, and to require the tenant to make monthly payments to the landlord beginning in the next calendar month in accordance with certain terms. The bill would require declarations under these procedures to be filed under penalty of perjury.*

The bill *would make these provisions effective in a jurisdiction in which a state or locally declared state of emergency is in effect until 15 days after the state of emergency ends and would repeal these provisions on January 1, 2022.*

For any residential unlawful detainer action that includes a cause of action under paragraph (2) of Section 1161, any defendant may, at any time between the filing of the complaint and entry of judgment, notify the court of that defendant's desire to stipulate to the entry of an order pursuant to this section.

(b) Upon receiving notice from the defendant in accordance with subdivision (a), the court shall notify the plaintiff and convene a hearing to determine whether to issue an order pursuant to subdivision (c).

(1) At the hearing, the court shall first determine whether the defendant's inability to stay current on the rent resulted from increased costs for household necessities or reduced household earnings due to the COVID-19 virus. The defendant shall bear the burden of producing evidence of increased costs for household necessities or reduced household earnings due to the COVID-19 virus. In the absence of evidence to the contrary, if the increased costs for household necessities or decreased earnings took place at any point between March 4, 2020, and March 4, 2021, then the court shall presume that the increased household costs or decreased household earnings was due to the COVID-19 virus.

(2) If the court finds that the defendant's inability to stay current on the rent resulted from increased costs for household necessities or reduced household earnings due to the COVID-19 virus, the court shall next permit the plaintiff to show cause for why the court should not issue an order pursuant to subdivision (c) due to material economic hardship on the plaintiff. If the plaintiff has an ownership interest in just one or two rental

units, then the court shall presume that issuance of an order pursuant to subdivision (c) would constitute a material economic hardship.

(3) If the plaintiff has an ownership in 10 or more rental units, the court shall presume that the issuance of an order pursuant to subdivision (c) would not constitute a material economic hardship. The formal rules of evidence shall not apply to the introduction of evidence at this hearing, but the court may look to the formal rules of evidence in determining the weight that it shall give to the documentation presented by each side.

(c) If the court determines that the tenant's inability to stay current on the rent is the result of increased costs in household necessities or decreased household earnings due to the COVID-19 virus and the court finds that it would not be an material economic hardship to the plaintiff and if the court determines that no cause exists after review of a timely response from the plaintiff, then the court shall make the following order:

(1) The tenant shall remain in possession.

(2) The rent for the rental property at issue shall be reduced by 25 percent for the next 12-month period.

(3) The tenant shall make monthly payments to the landlord beginning in the next calendar month, in strict compliance with all of the following terms:

(A) The payment shall be in the amount of the monthly rent as adjusted pursuant to paragraph (2), plus 10 percent of the unpaid rent owing at the time of the order, excluding late fees, court costs, attorneys fees, and any other charge other than rent.

(B) The payment shall be delivered by a fixed day and time to a location that is mutually acceptable to the parties or, in the absence of an agreement between the parties, by no later than 11:59 pm on the fifth day of each month.

(C) The payment shall be made in a form that is mutually acceptable to the parties or, in the absence of agreement between the parties, in the form of a cashier's check or money order made out to the landlord.

(4) If the tenant fails to make a payment in full compliance with the terms of paragraph (2), the landlord may, after 48 hours' notice to the tenant by telephone, text message, or electronic mail, as stipulated by the tenant, file with the court a declaration under penalty of perjury containing all of the following:

Arguments in support:

According to the author, "We already had a homeless crisis before the coronavirus reached California. The last thing we need is to put more people on the streets and increase community spread," said Ting. "We must prioritize public health right now and keep people housed."

AB 828 defines the moratorium period and provides a framework for repayment of past-due monies. Provisions include:

- No evictions or foreclosures during the declared state of emergency related to COVID-19, plus 15 days afterward
- Courts can set up a repayment plan for monies owed and allow residents to remain in the residence
- Payment recovery period may go through March 2021 if economic hardship due to the coronavirus can be proven

In recognition of the same financial difficulties that small businesses and nonprofits are facing during this pandemic, Ting has also agreed to principal co-author SB 939, a proposal by State Senator Scott Wiener (D-San Francisco) that establishes similar protective measures on the commercial side.

"People must be able to focus on their own health and the health of our community, and AB 828 ensures people have one less thing worry about financially. We have a moral obligation to keep people stable in their housing and to avoid dislocation and increased homelessness. Absent a safety issue, it is unethical to evict people during this pandemic. This legislation simply hits the pause button and sends a clear signal that we're

serious about keeping people stable and housed so that they can recover as we come out of the emergency," said Wiener, who is also a principal co-author on Ting's AB 828.

Both bills are expected to be acted on once the Legislature re-convenes. In the meantime, Ting will continue to engage with groups and constituents, welcoming input not only on these proposals, but also other policy ideas that can help California get through and recover from this public health crisis.

Arguments in opposition:

- Owners of multifamily properties who were current on their mortgage payments as of February 1, 2020, and have federally insured, assisted, or supplemented loan (Fannie Mae, Freddie Mac, FHA or any loans backed or assisted by any branch of the federal government, including LIHTC) may request forbearance for 30 days due to financial hardship, with extensions of up to a total of 90 days. Borrowers receiving the forbearance may not evict or charge late fees to tenants for the duration of the forbearance period.
- Moratorium on eviction filings, or fees or penalties for tenants for nonpayment of rent for 120 days on properties insured, guaranteed, supplemented, protected, or assisted in any way by HUD, Fannie Mae, Freddie Mac, the rural housing voucher program, covered by the Violence Against Women Act of 1994.
- Some tenants will be temporarily protected from eviction for unpaid rent by a patchwork of federal and local laws. But real-estate operators and analysts have worried that unpaid rent could set off a chain of events that first cause commercial mortgage defaults, zapping investments in bonds backed by those mortgages.
- The federal government has agreed to let apartment building owners with government-backed mortgages defer their mortgage payments, and the Federal Reserve also said it would buy up bonds tied to certain multifamily loans.
- Those measures, however, only cover part of the total rental market and don't address loans held by banks without a government guarantee. Less than one third of U.S. rental units are federally financed and covered by protections in last month's stimulus package, according to an estimate from the Urban Institute, a Washington-based think tank.

Support: (Verified 4/12/2020)

None on file

Opposition: (Verified 4/12/2020)

California Apartment Association
California Association of Realtors

Status: Assembly Public Safety

Senate Floor votes:

Assembly floor votes:

Legislative Item #2 **Action**

AB 1947 (Kalra) Employment Violation Complaints: Requirements: Time

Introduced by Assembly Members Kalra and Gonzalez
(Coauthors: Assembly Members Bonta, Chu, Jones-Sawyer, Luz Rivas, Robert Rivas, Mark Stone, Ting, Weber, and Wicks)
(Coauthors: Senators Lena Gonzalez and Leyva)

Recommended action: OPPOSE
Presentation: Gene Wunderlich

Summary:

AB 1947 (Kalra), undermines the essence of the Division of Labor Standards Enforcement's (DSLE) complaint process by requiring a one-sided attorney's fee provision that will incentivize additional litigation. California is already widely perceived as having a hostile litigation environment for employers. One factor that contributes to this negative perception is high damage awards and the threat of attorney's fees in civil litigation that often dwarf the financial recovery the plaintiff actually receives.

Description:

Existing law creates the Division of Labor Standards Enforcement, which is headed by the Labor Commissioner, and commits to it the general authority to enforce the requirements of the Labor Code. Existing law generally authorizes people who believe that they have been discharged or otherwise discriminated against in violation of any law enforced by the Labor Commissioner to file a complaint with the Division of Labor Standards Enforcement within 6 months after the occurrence of the violation. Existing law generally requires the Labor Commissioner to commence actions to enforce labor standards within 3 years of their accrual, as specified.

This bill would extend the period of time within which people may file complaints subject to the 6-month deadline, described above, to within one year after the occurrence of the violations.

Existing law prohibits employers and their agents from making, adopting, or enforcing a rule, regulation, or policy preventing an employee from disclosing information to certain entities or from providing information to, or testifying before, any public body conducting an investigation, hearing, or inquiry if the employee has reasonable cause to believe that the information discloses a violation of a law, as specified. Existing law also prohibits retaliation against an employee for various reasons.

This bill would authorize a court to award reasonable attorney's fees to a plaintiff who brings a successful action for a violation of the provisions described above.

Argument in opposition

Labor Code Section 1102.5 protects an employee who provides information and has reason to believe the information discloses a violation of the law. These employees are referred to as "whistleblowers". Whistleblower retaliation occurs when an employee engages in this lawful activity yet suffers an adverse employment action because he or she engaged in this protected activity. Labor Code Section 98.7 sets forth a detailed process regarding how these complaints are handled. These procedures have safeguards for employees to ensure that there is adequate opportunity to present evidence in a timely and efficient manner and pursue an appeal or litigation if necessary.

AB 1947 will undermine the DLSE process by adding one-sided attorney's fee recovery for an employee who prevails in a whistleblower action. The DLSE does not have exclusive jurisdiction over whistleblower complaints. Instead, the DLSE process provides an alternative to civil litigation. The decision is up to the

employee and, if the employee decides to file a complaint with the Labor Commissioner, it is usually because this is the less contentious approach. However, if **AB 1947** were to be enacted, then more employees would file their claims in civil court rather than utilize the DLSE process.

Support: (Verified 412/2020)

None on file

Opposition: (Verified 4/12/2020)

None on file

Status: Assembly Committees on Labor and Employment, Judiciary

Legislative Item #3	**Action**

AB 2019 (Holden) Pupil Instruction: College and Career Access Pathways Partnerships: County Offices of Education

Recommended action: SUPPORT
Presentation: Gene Wunderlich

Summary:

One constraint on California's economy has been a lack of Californians with the skills need to keep our economy growing. This has hurt businesses – who cannot find the workers they need – and has hurt workers – who lack the skills to fill California's jobs. Furthermore, this gap is only growing as high-skilled baby boomers retire and their jobs become vacant. The SWCLC SUPPORTED this program when it was established in 2015 (AB 288-Holden).

Description:

Existing law, until January 1, 2027, authorizes the governing board of a community college district to enter into a College and Career Access Pathways (CCAP) partnership with the governing board of a school district or the governing body of a charter school with the goal of developing seamless pathways from high school to community college for career technical education or preparation for transfer, improving high school graduation rates, or helping high school pupils achieve college and career readiness.

This bill would also authorize county offices of education to enter into CCAP partnerships with the governing boards of community college districts in accordance with these provisions.

Argument in support:

The existing College and Career Access Pathways (CCAP) program allows partnerships between school districts and community colleges in order to develop seamless transitions from high school to community college. These programs help promote career technical education and improve high school graduation rates and transfer rates for community college students.

AB 2019 will add to this program by allowing – but not compelling – community colleges to enter agreements to help a group that is not, at present, allowed under CCAP legislation: youths in the juvenile courts system. **AB 2019** will allow this segment of California's youth the potential to reap the benefits of CCAP programs, including improved high school graduation rates and improved success in college. Moreover, it will potentially help California's economy by helping them fill the holes in California's workforce.

Support: (Verified 4/12/2020)

CalChamber

Opposition: (Verified 412/2020)

None on file

Status: Assembly Higher Education

Legislative Item #4 **Action**

AB 2143 (Stone) Settlement Agreements: Employment Disputes

Recommended action: SUPPORT
Presentation: Gene Wunderlich

Summary:

This bill is a follow-up to last year's AB 749 (Stone, Ch. 808, Stats. 2019) OPPOSED by the SWCLC. That measure prohibited the use of no-rehire provisions in any agreement settling an employment dispute where the employee had filed a complaint against the employer.

AB 2143 amends that statute that prohibits an agreement to settle an employment dispute from containing any provision that prohibits, prevents, or otherwise restricts an "aggrieved person," as defined, from obtaining future employment with the employer against which a claim or action has been filed.

Background:

Existing law prohibits an agreement to settle an employment dispute from containing a provision that prohibits, prevents, or otherwise restricts a settling party that is an aggrieved person, as defined, from working for the employer against which the aggrieved person has filed a claim or any parent company, subsidiary, division, affiliate, or contractor of the employer.

This bill would require the aggrieved person to have filed the claim in good faith for the prohibition to apply.

Existing law creates an exception from the prohibition if the employer has made a good faith determination that the aggrieved person engaged in sexual harassment or sexual assault.

This bill would require the determination of sexual assault or sexual harassment to be documented by the employer before the aggrieved person filed the claim. The bill would also expand this exception to include determinations that the aggrieved person engaged in any criminal conduct.

Argument in support:

The California Chamber of Commerce, writing on behalf of itself and other business and employer associations, supports AB 2143 because it "expands the legitimate reasons upon which an employer may include a provision in a settlement agreement that precludes a person from seeking reemployment."

The Chamber points out that it opposed last year's AB 749 "on the basis that there are additional reasons other than harassment or assault that justify an employer prohibiting future employment. AB 2143 recognizes these additional reasons and allows an employer to include a prohibition to future employment for any employee the employer believes in good faith engaged in any criminal conduct." Although the Chamber and the other supporters believe that there are additional reasons that justify an employer prohibiting future employment of an individual, they are nonetheless "pleased to see the addition of criminal conduct."

Support: (Verified 3/12/2020)

California Apartment Association
California Association of Joint Powers Association
California Association of Winegrape Growers
California Restaurant Association
California State Association of Counties
North Orange County Chamber Official
Police Garages of Los Angeles
Rancho Cordova Chamber of Commerce
Santa Maria Valley Chamber of Commerce
Western Growers Association

Opposition: (Verified 4/12/2020)

None on file

Status: Committee on Judiciary

Legislative Item #5 **Action**

Ab 2570 (Stone) False Claims Act

Recommended action: OPPOSE
Presentation: Gene Wunderlich

Summary:

AB 2570 will bring nuisance lawsuits into tax enforcement, create conflicts with existing tax law, and lead to double jeopardy for taxpayers.

Description:

Existing law, the False Claims Act, provides that any person who commits specified acts, including, but not limited to, knowingly presenting a false or fraudulent claim for payment or approval or knowingly making or using a false record or statement material to a false or fraudulent claim, is liable to the state or to the political

subdivision for 3 times the amount of damages that the state or political subdivision sustained because of the act and for the costs of a civil action brought to recover any penalties or damages, and is subject to a civil penalty. That act requires the Attorney General or the prosecuting authority of a political subdivision to diligently investigate violations of those specific acts involving state funds or political subdivision funds, respectively, and authorizes the Attorney General, the prosecuting authority, or a qui tam plaintiff to bring a civil action against a person who commits those acts.

This bill, with respect to whether a false record or statement is material, would require that the materiality test focus on the potential effect of the false record or statement when it is made. This bill would specify that the amount of damages, as described above, include consequential damages. The bill would state that these changes are declaratory of existing law.

The False Claims Act does not apply to claims, records, or statements made under the Revenue and Taxation Code.

This bill would apply the False Claims Act to apply to claims, records, or statements made under the Revenue and Taxation Code if specified conditions are met, including if damages pleaded in an action under the act exceed $200,000 and that the claim, record, or statement was made on or after January 1, 2021. The bill would define "person" for these purposes.

This bill would require the Attorney General or prosecuting authority, as described, to consult with the taxing authorities to whom the claim was submitted prior to filing or intervening in any action under the act that is based on the filing of false claims, records, or statements made under the Revenue and Taxation Code.

This bill would authorize the Attorney General or the prosecuting authority, but not the qui tam plaintiff, to obtain otherwise confidential records relating to taxes, fees, or other obligations under the Revenue and Taxation Code. The bill would prohibit the disclosure of federal tax information to the Attorney General or the prosecuting authority without authorization from the Internal Revenue Service. The bill would require that any such information obtained be kept confidential, except as necessary to investigate and prosecute violations of these provisions.

Under the False Claims Act, an employee, contractor, or agent who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of their employment for engaging in lawful acts, as specified, or other efforts to stop violations of the act, is entitled to all relief necessary to make them whole.

This bill would specify that the relief described above applies to any current or former employee, contractor, or agent if these parties are otherwise harmed or penalized by an employer. This bill would define lawful acts to include specified acts that may violate a contract, employment term, or duty owed to an employer or contractor.

Arguments in opposition:

Opponents claim that though **AB 2570** is being presented as a means to combat tax fraud, this is a solution in search of a problem. Present fiscal analysis of **AB 2570** has not identified any estimated increase in revenue to California from expanding the FCA to allow tax-related suits. It is our belief that this is because there is not any present lack of anti-fraud statutes or mechanisms in state tax law. Thankfully, California already applies civil and criminal liability for fraud under California Rev & Tax Code Section 19706 (tax fraud) and Penal Code Section 72 (false statement to public entities may constitute a felony). Similarly, there is no reporting of rampant tax fraud in California that would justify new tools such as the FCA being utilized or would suggest additional income if FCA lawsuits could be brought.

Importantly, we do not condone tax fraud, nor do we oppose this bill in order to defend such bad faith actions by individuals or businesses. Our opposition stems from serious concerns about the drastic changes that **AB 2570** would bring to California by introducing conflicting standards into tax law and allowing private attorneys to bring tax lawsuits against taxpayers.

Support: (Verified 4/12/2020)

None on file

Opposition: (Verified4/12/2020)

CalChamber

Status: Assembly Judiciary, Revenue & Taxation

Legislative Item #6 **Action**

AB 2920 (Obernolte) Hazardous Waste: Transportation: Consolidated Manifesting Procedures

Recommended action: SUPPORT
Presentation: Gene Wunderlich

Summary:

AB 2920 would authorize surplus household waste to be collected and transported by state-registered waste transporters to appropriate permitted facilities for proper treatment or disposal under consolidated manifesting procedures.

Description:

Existing law, as part of the hazardous waste control laws, imposes various manifest requirements for transporting hazardous waste, including, among others, requiring any person generating hazardous waste that is transported, or submitted for transportation, for offsite handling, treatment, storage, disposal, or any combination thereof, to complete a manifest and be subject to transporter registration requirements. Existing law authorizes transporters and generators to use consolidated manifesting procedures for certain kinds of waste if specified requirements are met. A violation of the hazardous waste control laws is a crime.

This bill would authorize those consolidated manifesting procedures to be used additionally for surplus household waste, as defined, collected from a retailer engaged in business in the state. By expanding the application of the requirements governing the use of consolidated manifesting procedures to additional kinds of waste, the bill would impose a state-mandated local program.

Arguments in support:

Existing law forces California retailers to place individual collected retail hazardous waste items on its own individual manifest, then place them in individual containers located on the transporter truck, even if an identical retail hazardous waste item is being collected from multiple store locations owned and operated by the very same retailer. As a result, each year California requires thousands of unnecessary truck trips to almost a half-million retail locations around the state.

AB 2920 would instead permit certain types of common household waste items to be routinely picked up at California's retail stores and transported for disposal with other wastes under consolidated manifesting procedures. Such common surplus household wastes include cleaning products, light bulbs, laundry detergent, and fertilizers, to name a few. By allowing the consolidated manifesting of these specific types of

the bill will allow DTSC-registered transporters to eliminate unnecessary in-state and/or out-of-state vehicle trips that currently require a separate manifest and separate pickup, thereby substantially lowering greenhouse gas emissions and fossil fuel consumption. Moreover, the bill encourages businesses to properly manage and treat their wastes, lower costs on businesses (and ultimately consumers), improves the efficiencies of the Department of Toxic Substances Control (DTSC) by reducing duplicative paperwork, and improves DTSC's ability to track these wastes "from cradle-to-grave."

Support: (Verified 3/12/2020)

CalChamber

Opposition: (Verified 3/12/2020)

None on file

Status: Environmental Safety and Hazardous Materials

Legislative Item #7 **Action**

SB 986 (Allen), Coastal Resources: New Development: Ghg Emissions

(Coauthors: Senators Bates, Borgeas, Chang, Dahle, Jones, Moorlach, Morrell, Nielsen, and Wilk)

Recommended action: OPPOSE
Presentation: Gene Wunderlich

Summary:

SB 986, which would add a new onerous requirement on all new development in the Coastal Zone—including housing development—to "minimize" greenhouse gas emissions (GHG), no matter how infeasible or costly the burden. This obligation is on top of the stringent GHG reduction requirements placed on housing and other development under the California Environmental Quality Act (CEQA) and through the state's rigorously green building code.

While this specific bill is aimed directly at future development in the Coastal Zone subject to both CEQA with an overlay of Coastal Commission, requirements like this have a tendency to spread once adopted. Much as with attempted expansions of Coastal Commission to control inland waterways, and the recently defeated WOTUS rule seeking to expand the definition of navigable waterways, the concern is that if passed, this would set the stage for further encroachment into ALL development regardless of location.

Description:

The California Coastal Act of 1976 regulates development, as defined, in the coastal zone, as defined, and requires that new development comply with specified requirements, including, among other things, requirements intended to minimize the adverse environmental impacts of the new development, minimize energy consumption and vehicle miles traveled, and, where appropriate, protect special communities and

neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.

This bill would additionally require that new development minimize greenhouse gas emissions.

Arguments in opposition:

CEQA already requires development to adopt feasible GHG mitigation. By removing the feasibility requirement that is inherent in CEQA this bill could force even small housing projects to adopt all GHG reduction measures, no matter what they cost or how little additional GHG emissions they succeed in preventing. In addition, it has taken over a decade for CEQA case law and guidelines to provide the guidance critical to interpreting individual housing project's obligations. This broad mandate will undoubtedly spur additional litigation as opponents of housing turn to courts to delay projects and judges are then forced to interpret what constitutes adequate "minimization."

The State Building Code Already Requires New Housing Incorporate Cost-Effective GHG reductions.

California already maintains the first-in-the-nation mandatory green building standards code, which was adopted specifically in an effort to meet the goals of AB 32, which established a comprehensive statewide program of cost-effective reductions of GHG. The Building Code is adopted and regularly updated after extensive study and evaluation by code experts and is world renowned for its green attributes which include a host of GHG reducing obligations from solar mandates and insulation specifications to water conservation and energy efficiency requirements. There is no justification to ignore the rigorous work of the Building Standards Commission and force additional costly requirements without any vetting as to integration, redundancy or necessity.

SB 986 Would Stifle Affordable Housing Construction In the Coastal Zone.

At a time when the state is experiencing an unprecedented housing and homeless crisis, to force additional GHG mitigation obligations on housing that is already the greenest in the nation with no mechanism to evaluate its cost effectiveness and feasibility is at best unwise and at worst irresponsible. From a practical perspective, the additional infeasible mitigation this bill compels means that the housing simply won't be built in the Coastal Zone. Setting aside the issues raised by that on its face, if housing is not built in the Coastal Zone it will have to be built in other areas which would increase commute times and overall GHG emissions, precisely the opposite of what is intended.

Support: (Verified 4/12/2020)

None on file

Opposition: (Verified 4/12/2020)

CalChamber

Status: Senate Natural Resources and Water

Legislative Item #8 **Action**

SB 1084 (Umberg) Pharmacy: Dispensing: Controlled Substances

Recommended action: OPPOSE
Presentation: Gene Wunderlich

Summary:

SB 1084 will increase prescription drug prices by requiring non-hospital pharmacies to dispense schedule II and IIN drugs in a lockable vial. While we agree that opioid abuse is a significant problem, we respectfully disagree that pharmacies and patients should bear the increased costs that will accompany this mandate.

Description:

The Pharmacy Law provides for the licensing and regulation of pharmacists by the California State Board of Pharmacy, which is within the Department of Consumer Affairs. Existing law, except as specified, prohibits a person from possessing any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or another of prescribed healing arts licensees pursuant to existing law. A violation of the Pharmacy Law is a crime.

This bill, with certain exceptions, *on and after June 30, 2021,* would require a pharmacist who dispenses in solid oral dosage form a controlled substance in Schedule II or Schedule IIN of the federal Controlled Substances Act to dispense it in a lockable vial, as defined, provide an educational pamphlet on controlled substances, and, if the lockable vial uses an alphanumeric *passcode* or other code, include the code in any patient notes in the database or other system used by the pharmacy in the dispensing of prescription drugs. The patient, or the patient's parent or legal guardian if the patient is a minor or otherwise unable to authorize medical care, would choose the ~~code.~~ *code, except as specified.*

The bill would require the board to develop the educational pamphlet and provide it to pharmacists in printed form. The bill would require the manufacturer of a controlled substance to reimburse the pharmacy *each month* for the cost of lockable vials used by the pharmacy ~~for the dispensation of the controlled substance.~~ *to dispense controlled substances within 30 days of receiving a claim for reimbursement, and would require the manufacturer to pay, among other costs, the net acquisition cost of the lockable vials and dispensing costs.*

The bill *would make the manufacturer subject to a civil penalty of $1,000 for each day the manufacturer is delinquent in reimbursing the pharmacy.*

The bill *would require a vendor that contracts with a pharmacy to provide lockable vials to make available at all times assistance online or through a toll-free phone number for patient use.*

Access to the vial would require:

1. An alphanumeric passcode or other code. or
2. A unique physical key. or
3. A locking mechanism that is accessible only by the patient with a code, alphanumeric passcode, or key, or by another secure mechanism. and
4. The manufacturer of a controlled substance shall reimburse the pharmacy within 30 days of receiving the claim and shall pay a reasonable rate for the net acquisition cost of the lockable vials, dispensing costs, and services rendered, including any patient consultation and instruction.

Arguments in opposition:

SB 1084 would require pharmacists to dispense narcotics in a lockable vial regardless of patient preference or request. According to the bill, the pharmacy would be forced to seek reimbursement for the vial's cost from the drug manufacturer who would have to remit payment within 30 days of receiving a monthly claim. The process will force pharmacies to frontload the vial cost and then depend on timely invoicing and payment practices so as to avoid financial pitfalls. This process will prove cumbersome and expensive. Specifically,

independent pharmacies will likely experience cashflow difficulties since they will need to frontload the vial costs, establish invoicing practices, then rely on timely execution and payment to receive a reimbursement.

Furthermore, pharmacies would have to maintain vial passcodes, stock locking vials in inventory, and manage logistics, including freight and shipping costs, in response to this bill. This cumbersome process will certainly increase prescription drug prices and these costs will be passed on to the consumer.

SB 1084 is also unneeded since locking vials are already available to consumers should they wish to purchase one. This bill would eliminate a consumer's choice and mandate a costly and cumbersome product be provided, thus increasing costs while hurting pharmacies. While certain patients would be exempted from necessitating a locking vial, all patients would feel the impact of the mandate by way of increased costs.

Status: Assembly Business and Professions, Labor and Employment

Legislative Item 9	**Action**

H.R. 6467 - Coronavirus Community Relief Act

Recommended action: SUPPORT / or comparable
Presentation: Gene Wunderlich

Summary:

To provide for an enhanced Coronavirus relief fund for units of government with a population of 500,000 or less, and for other purposes.

Description:

IN GENERAL. Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for making payments to units of local government with a population of 500,000 or less $250,000,000,000 for fiscal year 2020.

AUTHORITY TO MAKE PAYMENTS. The Secretary shall pay to a unit of local government of the relative unit of local government population proportion amount within 30 days after a unit of local government of a State submits the certification required by subsection (e).

USE OF FUNDS. A unit of local government shall use the funds provided under a payment made under this section to cover only those costs of the unit of local government that are costs that:

- are reasonably deemed by the unit of local government to be necessary; and
- directly or indirectly involve, relate to, are, have been, or will be incurred due to, or are, have been, or will be a response to circumstances caused by, the public health emergency with respect to the Coronavirus Disease 2019 (COVID–19); and
- were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.

Arguments in support:

Even as the Congress has passed three bills to deal with the pandemic, Cities across the country are already realizing the fiscal impacts of the recent extraordinary measures are having on local budgets. Many sources of revenue are falling precipitously as whole sectors of the economy are shut down in compliance with state and local stay at home orders.

While we appreciate that Congress provided $150 billion in supplemental funding in the CARES Act for fiscal year 2020 through the Coronavirus Relief Fund for state, local, and tribal governments, many cities across the country**, including our own local cities**, do not have direct access to funding through the legislation. As most of the nation's cities and counties do not have a population that exceeds 500,000, those entities must rely on their states to receive any direct funding to help meet local obligations.

SWCLC Southwest California Legislative Council

2020 Meeting Schedule
w/ Guest speakers

~~**1/27 Open – Capt. Tony Conrad, Murrieta PD**~~

~~**2/24 Open – Jennings Immel, U.S. Chamber of Commerce**~~

~~**3/16 Open – Anne Mayer, Executive Director, RCTC**~~

4/20 Open

5/18 Open

6/15 Open

7/20 Open

8/17 Open

9/21 Open

10/19 Open

11/16 Closed

12/16 Dark