



MEETING AGENDA
Monday May 17, 2021
Presiding: Adam Ruiz, Chair

May: <https://us02web.zoom.us/meeting/register/tZUpcO2qqDMrHNcnajYeJdrFean-i6Yg45km>

2021 Strategic Initiatives

Budget, Tax Reform & Economic Recovery / 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

2021 Legislative Report #5

Action

1. [ACA-9 \(Kiley\) Property taxation: transfers of principal residences](#)
2. [AB 13 \(Chau\) Public contracts: automated decision systems](#)
3. [AB 71 \(Rivas\) Homelessness Funding: Bring California Home Act](#)
4. [AB 701 \(Gonzalez\) Warehouse distribution centers.](#)
5. [AB 995 \(Gonzalez\) Paid sick days: accrual and use](#)
6. [AB 1119 \(Wicks\) Employment discrimination](#)
7. [AB 1371 \(Friedman\) Recycling: plastic: packaging and carryout bags](#)
8. [SB 82 \(Skinner\) Petty theft](#)
9. [SB 260 \(Wiener\) Climate Corporate Accountability Act](#)

Guest Speaker **Juan Perez, Sonia Perez – French Valley Airport Tower** **Information**

Guest Speaker **Bill Blankenship – Redistricting impact & opportunity** **Information**

Chamber Announcements **Information**

Adjourn – Next Meeting June 21, 2021

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Southern California Edison
The Gas Company
California Apartment Association
Mt. San Jacinto College
Murrieta Spectrum

SWCLC

Southwest California Legislative Council

MEETING MINUTES Monday, April 19, 2021 ZOOM LINK

Attendance

Council Representatives Present

Adam Ruiz, Temecula
Daneen Ashworth, Murrieta/Wildomar
Adam Eventov, Temecula
Dennis Frank, Temecula
Eric McLeod, Murrieta/Wildomar
Greg Morrison, Lake Elsinore
Brad Neet. Murrieta/Wildomar
Chris Sizemore, Temecula
Kassen Klein, Meniffee

Council Representatives Absent

Jennifer Sevilla, Murrieta/Wildomar
Ben Benoit, Lake Elsinore
Ben Diedrich, Murrieta/Wildomar
Joan Sparkman, Temecula
Alex Braicovich, Lake Elsinore

Call to Order

The meeting was called to order by Chair Ruiz at 12:01pm.

Roll Call

Attendance was called by Chair Ruiz at 12:01pm.

Chair Report

Ruiz informed the council that there has been discussion regarding funding for the proposed tower. It was brought forward by council members that they were hoping to have a proposal. There will be a presentation from Juan Perez at the May meeting to update the council on those matters.

Approval of Minutes

A motion was made by Frank to approve the minutes from March 15, 2021 meeting as written. The motion was seconded by McLeod. Klein abstained.

Guest Presentation

District Attorney, Mike Hestrin, introduced himself and explained that he wanted to give a few updates on what his office has been working on. He shared a video about the drug, fentanyl, and its associated risks. The video detailed that people are buying what they are thinking is prescription pills such as Valium or Percocet, and in reality its actually the synthetic opioid, fentanyl. DA Hestrin shared that fentanyl can kill people after just one dose. He added that his office is on a mission to hold the drug dealers accountable for these people's deaths. He shared that his office has filed a series of murder charges based on drug dealing for fentanyl. He informed the council that currently, there is very little punishment right now for drug dealing and that is not enough to deter anyone from this dangerous conduct. He shared that fentanyl is a synthetic opioid being mass produced in china

and being brought over to the USA. He detailed that drug dealers are now selling pills that look like opioids and they are cutting it with inert substances and mixing it together but there is no way to know which pills have too much fentanyl in them to kill someone. He added that if they can prove these drug dealers knew the risks of fentanyl they will prosecute them for murder much like a DUI. He added that they are the first DA's office to attempt applying murder charges in this way.

Johnathon Ingram asked if there is a correlation between the uptick in fentanyl with the legalization of marijuana in Riverside County. DA Hestrin said he has not seen that correlation; however, he has seen some dealers spiking some marijuana products with fentanyl.

Matt Liesmeyer asked why no other DA offices are doing this and what is the likelihood that he can get these charges to stick? DA Hestrin stated although it's novel, he's confident the charges will stick. He added that it will be a second-degree charge much like the Watson murder charge for a DUI that results in a persons death. He thinks they will win on appeal.

DA Hestrin updated the council that they lost the appeal on *People vs Rutherford*. He shared that this is the case where a law firm has been shaking down local businesses. He informed the council to please tell their chamber members that if they start getting lawsuits stating they are in violation with the American with Disabilities Act, be careful. He added that some people have used the ambiguities with that law to shake down businesses for money in order for them not to sue. In this case, it was a law firm exclusively dedicated to these lawsuits. The DA sued them in civil court. They took it to the Supreme Court and the Supreme Court and the Supreme Court declined to hear their case. They are going to go back and start filing criminal extortion charges against these people who are fraudulently filing cases and shaking down businesses. DA Hestrin told the council to encourage their members to continue to call the DA's office when this happens and don't be discouraged about the Supreme Court setback because his office is not slowing down.

DA Hestrin listed the legislative bills that he is in opposition with:

- One that would make someone local sheriff who is not a local police officer (He could not remember the bill number)
- AB 759 would make the next DA election a 2-year term.
- AB 679 prohibits use of in custody informants if they receive any benefit
- AB 518 allows the court to impose the lesser sentence if two crimes are 654; if two crimes cover similar conduct
- AB 329 & SB 262 elimination of cash bail
- AB 333 restricts impositions of gang enhancements
- AB 1224 limits use of special circumstances on murder cases
- SB 775 expands limitation of PC 1437 to attempted murder and manslaughter
- SB 82 deems all robberies without great bodily injury to be misdemeanors and its retroactive
- SB 81 limitation on DA's filing on any kind of enhancements (ie. gun, gang, GBI, etc)
- AB 1509 reduces the 10-20 life enhancement

Review of Legislative Items

1. AB 297 (Gallagher) Fire prevention.

There was a motion to support and a second
Klein abstained
There was no discussion

2. AB 927 (Medina) Public postsecondary education: community colleges: statewide baccalaureate degree pilot program.

There was a motion to support and a second
Klein abstained
There was no discussion

3. AB 1192 (Kalra) Employment information: worker metrics.

There was a motion to oppose and a second
Klein abstained
There was no discussion

4. AB 1249 (Gallagher) Income taxes: gross income exclusions: wildfires.

There was a motion to support with extension and a second
Klein abstained
There was no discussion

5. SB 467 (Wiener) Oil and gas: hydraulic fracturing, acid well stimulation treatments, steam flooding, water flooding, or cyclic steaming: prohibition: job relocation.

Wunderlich informed the council that this bill failed in committee the prior week, after he had already added it to the agenda. Due to this, no vote was taken.

6. SB 527 (Melendez) Greenhouse Gas Reduction Fund: high-speed rail: Salton Sea restoration.

There was a motion to support and a second
Klein abstained
There was no discussion

7. SB 606 (Gonzalez) Workplace safety: violations of statutes: enterprise-wide violations: employer retaliation.

There was a motion to oppose and a second
Klein abstained

Morrison stated he thought they fought 3 of these bills last year and he asked if any passed. Ashworth stated that any bills in favor of litigation, passed. Morrison shared that he doesn't know why there are so many bills that address the rebuttable position presumption. Giardinelli recalled that there was a bill to create an irrebuttable presumption that did get through, but the governor vetoed it. He elaborated that this bill creates a rebuttable presumption which would then shift the burden to the employer to prove that they didn't fire someone for purposes of retaliation.

8. SB 668 (Bates) Property taxation: change in ownership: inheritance exclusion.

There was a motion to support and a second
Klein abstained

There was no discussion

9. SB 780 (Cortese) Local finance: public investment authorities.

There was a motion to support and a second

Klein abstained

There was no discussion

Bill Tracking Update

Wunderlich provided an update to AB24, which the council adopted a “watch” position on in January due to needing more clarification on the definition of “promptly” regarding providing notice of unemployment benefits. He shared that Assembly Member Waldren has since clarified that promptly means 30 days for an employer to get the notice to employee and an additional 15 days for them to file a motion if they disagreed with it. Wunderlich added that the California Chamber of Commerce came out with 15-16 job killer bills and before it had come out the council had already taken five to six positions on some of those bills.

Adjourn

Chair Ruiz called the meeting to adjourn at 1:22pm.

[ACA-9 Property taxation: transfers of principal residences](#) (as introduced)**Recommended action: SUPPORT****Presentation: Gene Wunderlich****Summary:**

Last month this Council voted to SUPPORT SB 668 (Bates) which seeks to delay and clarify implementation specifically of the intergenerational transfer portion of Prop 19. Prop 19 was passed last year by California voters, and **OPPOSED** by the SWCLC. **ACA-9 seeks an actual repeal of Part 2 of Prop 19, would reinstate the prior rule and make it retroactive for any affected purchases that have been impacted by Prop 19.** As Prop 19 was a constitutional Amendment passed by voters, this measure, if passed, would also need to come before voters.

Description:

The California Constitution limits the amount of ad valorem taxes on real property to 1% of the full cash value of that property, defined as the county assessor's valuation of real property as shown on the 1975–76 tax bill and, thereafter, the appraised value of the real property when purchased, newly constructed, or a change in ownership occurs after the 1975 assessment, subject to an annual inflation adjustment not to exceed 2%.

The California Constitution, until February 15, 2021, excluded from classification as a “purchase” or “change in ownership” requiring reappraisal the purchase or transfer of a principal residence and the first \$1,000,000 of other real property of a transferor in the case of a transfer between parents and their children, or between grandparents and their grandchildren if all the parents of those grandchildren are deceased.

On November 3, 2020, the voters approved Proposition 19. Pursuant to Proposition 19, the California Constitution, on and after February 16, 2021, removes the above-described exclusion from classification as a “purchase” and “change in ownership” requiring reappraisal, and instead excludes from classification as a “purchase” and “change in ownership” the purchase or transfer of a family home or family farm, as those terms are defined, of the transferor in the case of a transfer between parents and their children, or between grandparents and their grandchildren if all the parents of those grandchildren are deceased, if the property continues as the family home or family farm of the transferee. In the case of the exclusion so provided to a transfer of a family home, the California Constitution, pursuant to Proposition 19, requires the transferee to claim the homeowner's or disabled veteran's exemption within one year of the transfer.

This measure would repeal the above-described provisions of Proposition 19. The measure would reinstate the prior rule excluding from classification as a “purchase” or “change in ownership” requiring reappraisal the purchase or transfer of the principal residence and the first \$1,000,000 of other real property of a transferor in the case of a transfer between parents and their children, or between grandparents and their grandchildren if all the parents of those grandchildren are deceased. The measure would apply retroactively to all effected purchases or transfers occurring on or after February 16, 2021.

Support: (Verified 5/12/2021)

None on file

Opposition: (Verified 5/12/2021)

None on file

Status: Pending referral – 2/3 vote required for passage

AB 13 (Chau) – Public contracts: automated decision systems (as amended)**Recommended action: OPPOSE****Presentation: Gene Wunderlich****Summary:**

Automated Decision Systems for Procurement. Allows local agencies to require businesses to submit impact assessments to audit automated decision systems as a requirement for successfully submitting bids to cities, but does not clearly define the framework for doing so, and does not account for intellectual property or the effect on businesses that will be excluded from bidding on such contracts because they do not have the resources to conduct such reports.

This bill requires a state agency procuring contract awards for goods or services that include the use, licensing or development of an Automated Decision System (ADS) for a high-risk application be based on the contract proposal that provides the most value-effective solution, not just the least costly

Description:

Existing law governing the acquisition of information technology goods and services requires all contracts for the acquisition of information technology goods and services related to information technology projects, as defined, to be made by, or under the supervision of, the Department of Technology, as prescribed. Existing law requires all other contracts for the acquisition of information technology goods or services, whether by lease or purchase, to be made by or under the supervision of the Department of General Services. Existing law grants the Department of Technology or the Department of General Services final authority in the determination of information technology procurement procedures applicable to specified acquisitions. Existing law grants the Department of Technology the final authority in the determination of information technology procurement policy.

Existing law states the intent of the Legislature that those policies and procedures developed by the Department of Technology and the Department of General Services provide for, among other things, the expeditious and value-effective acquisition of information technology goods and services to satisfy state requirements. Existing law provides that, for these purposes, “value-effective acquisition” may be defined to include, among other things, the operational cost that the state would incur if the bid or proposal is accepted, the quality of the product or service, or its technical competency, and innovative use of current technologies and quality results.

Existing law requires contract awards for all large-scale systems integration projects to be based on the proposal that provides the most value-effective solution to the state’s requirements, as determined by the evaluation criteria contained in the solicitation document. Existing law requires evaluation criteria for the acquisition of information technology goods and services, including systems integration, to provide for the selection of a contractor on an objective basis not limited to cost alone. Existing law requires specified processes and procedures for the solicitation for acquisitions, the evaluation of proposals, the selection of contractors, and the consideration of protests by participating bidders.

This bill would enact the Automated Decision Systems Accountability Act of 2021 and state the intent of the Legislature that state agencies use an acquisition method that minimizes the risk of adverse and discriminatory impacts resulting from the design and application of automated decision systems. The bill would define “automated decision system” for purposes of the bill’s provisions to mean a computational process, including one derived from machine learning, statistical modeling, data analytics, or artificial intelligence, that issues a score, classification, recommendation, or other simplified output that is used to support or replace human decisionmaking and materially impacts natural persons.

The bill would require contract awards for goods or services that include the use, licensing, or development of an automated decision system for a high-risk application, as defined, to be based on the proposal that provides the most value-effective solution to the state's requirements, as determined by the evaluation criteria contained in the solicitation document, and to be determined based on comprehensive assessment of objective criteria not limited to cost alone. The bill would require awarding of contracts subject to the bill's provisions to be conducted pursuant to the requirements referenced above for awarding contracts for large-scale integration projects based on the proposal that provides the most value-effective solution to the state's requirements. Under the bill, to be considered responsive to a solicitation for these contract, a bid response would be required to include an automated decision system impact assessment that makes certain disclosures, including, among others, certain tests of the system to help assess risks posed to the privacy or security of personal information and risks that may result in inaccurate, unfair, biased, or discriminatory decisions impacting natural persons.

The bill would require the Department of Technology, on or before January 1, 2023, to establish and make public guidelines for identifying automated decision systems that are subject to the bill's requirements. The bill would require a state agency to submit to the department, within 10 days of awarding such a contract, a high-risk automated decision system accountability report that includes, among other things, a description of any potential disparate impacts, as specified, from the proposed use of the automated decision system, and a detailed mitigation plan for identifying and minimizing the potential for any disparate impacts throughout the contracted use of the system. The bill would require, within 30 days of such a contract award and for the duration of the contract, the department to publish on its internet website the automated decision system impact assessment submitted by the contractor and the high-risk automated decision system accountability report prepared by the state agency. The bill would authorize the department to adopt regulations and publish guidelines as necessary to effectuate the purposes of the bill.

The bill would authorize a local agency, for a contract for a good or service that includes the use, licensing, or development of an automated decision system for a high-risk application, to require a bid response submitted by a prospective contractor to include an automated decisions system impact assessment in order to be considered responsive to the solicitation. The bill would also authorize the local agency to base the contract award on the proposal that provides the most value-effective solution to the agency's requirements pursuant to the above-described provisions of the bill.

Fiscal Effect:

- 1) One-time costs (General Fund (GF)), possibly in the millions of dollars, across all state agencies seeking to procure ADS for high risk applications from contractors that can demonstrate their ADS complies with a required Impact Assessment. If state agencies may purchase ADS for high risk applications only from vendors able to demonstrate compliance with the requirements of an Impact Assessment, vendors may charge more for services, resulting in greater GF costs.
- 2) Costs (GF), possibly in the mid-hundreds of thousands of dollars annually, to state agencies for additional staff to prepare and submit Accountability Reports for CDT review within 10 days of contracting with a vendor for an ADS with high risk applications.
- 3) Costs (GF), possibly in the hundreds of thousands of dollars to low millions of dollars annually, to CDT in additional staff and resources to review Accountability Reports from state agencies and post those reports on-line as well as draft regulations consistent with the mandates of this bill and seek public comment.

Arguments in support:

According to the author: The state has a legitimate and substantial interest in ensuring that 'high-risk' automated decision-making systems, procured and used by government, do not result in discrimination. It is therefore necessary to establish a process to review algorithmic decision systems in order to account for impacts on accuracy, fairness, bias, discrimination, privacy and security.

AB 13 would require an Automated Decision System Impact Assessment (AIA) when a state agency seeks to procure a "highrisk" automated decision system that poses a significant risk to the legal rights, health and well-being of individuals or when the system can result in inaccurate, unfair, biased or discriminatory decisions. This is key to building trust in the public sector use of ADS and thwarting ADS bias that harms the health and wealth of communities of color.

Arguments in opposition:

AB 13 would require an Automated Decision System Impact Assessment (AIA) when a state agency seeks to procure a "highrisk" automated decision system that poses a significant risk to the legal rights, health and well-being of individuals or when the system can result in inaccurate, unfair, biased or discriminatory decisions. This is key to building trust in the public sector use of ADS and thwarting ADS bias that harms the health and wealth of communities of color.

ADS is defined as any computational process that issues a score, classification, recommendation, or other simplified output that is used to support or replace human decision making and materially impacts natural persons. This definition literally encompasses all of computing, including calculators, which is demonstrative of how broadly this bill is drafted. Additionally, the definition of "simplified output" means output composed of fewer dimensions than the respective inputs used to generate it. This is the same issue with the definition of ADS. A simple calculator takes several inputs and generates an output with a smaller dimension (e.g. 1+2 is the input, and the output is 3; two dimensions of input vs one dimension of output). Almost any computational function will provide a simplified output, thus leaving this definition overbroad.

- **AB 13 will drive the cost of government contracts up.** The additional bureaucratic processes that AB 13 requires will slow down state procurements from both the vendor and agency side.
- **AB 13 remains overbroad and ambiguous.** AB 13 is overbroad because, although it has been narrowed in scope to deal with procurement contracts, it would still be difficult, if not impossible, for any California contractor to comply with the requirements as drafted.
- **AB 13 does not provide protections for proprietary and trade secret information.** AB 13's impact assessments are so broad and arbitrary that many businesses could be required to reveal proprietary information about internal processes and trade secrets in order to apply for contracts with local agencies.

Support: (Verified 5/12/2021)

The Greenlining Institute (sponsor)
Consumer Federation of America
Consumer Reports Advocacy (if amended)
Media Alliance

National Association of Social Workers, California Chapter
Oakland Privacy
Privacy Rights Clearinghouse
Secure Justice

Opposition: (Verified 5/12/2021)

Advanced Medical Technology Association (AdvaMed)
Alliance for Automotive Innovation
American Council of Life Insurers
Association of California Life & Health Insurance Companies
Association of National Advertisers
California Bankers Association
California Business Properties Association
California Chamber of Commerce
California Credit Union League
California Financial Services Association
California Grocers Association
California Land Title Association
California Manufacturers & Technology Association

California Mortgage Bankers Association
California Trucking Association
Consumer Data Industry Association
Consumer Technology Association
Electronic Transactions Association
Insights Association
Internet Association
Internet Coalition
MPA – Association of Magazine Media
Pacific Association of Domestic Insurance Companies
Securities Industry and Financial Markets Association
Silicon Valley Leadership Group
TechNet
Technology Industry Association of California (TechCA)

Status: Assembly Appropriations - suspense

AB-701 (Gonzalez) Warehouse distribution centers (as amended)

Recommended action: **OPPOSE**

Presentation: Gene Wunderlich

Summary:

New Private Right of Action, PAGA litigation, and Regulations for Warehouses. Threatens warehouse employers with duplicative costly litigation by creating a new, independent private right of action, and a representative action under PAGA, for failing to comply with vague standards. Additionally invites ongoing litigation by creating a rebuttable presumption of retaliation for any adverse employment action associated with an employee's work performance, and compels duplicative and likely inconsistent regulations from both Labor Commissioner and Cal/OSHA regarding appropriate performance levels in warehouses. Identified as a **JOB KILLER** by the CalChamber.

Requires specified employers of 100 or more nonexempt employees at a single warehouse distribution center or 1000 or more nonexempt employees at one or more warehouse distribution centers in the state to provide each employee with a written description of each quota they are subject to within a defined time period and any potential adverse action that could result from a failure to meet the quota.

Description:

Existing law relating to employment regulation and supervision imposes special provisions on certain occupations and industries. Existing law charges the Labor Commissioner and the Division of Labor Standards Enforcement with the enforcement of labor laws.

This bill, among other things, would require specified employers to provide to each employee, defined as a nonexempt employee who works at a warehouse distribution center, a written description of each quota to which the employee is subject, including the quantified number of tasks to be performed, or materials to be produced or handled, within the defined time period, and any potential adverse employment action that could result from failure to meet the quota.

The bill would require, if the quota or the adverse consequences for failure to meet the quota have changed, the employer to provide the employee with a revised written description.

The bill would prohibit an employer from taking adverse action against an employee for failure to meet a quota that has not been disclosed or for failure to meet a quota that does not allow a worker to comply with health and safety laws.

The bill would require that any action taken by an employee to comply with health and safety laws or division standards be considered time on task and productive time for the purposes of any quotas or monitoring system.

This bill would give a current and former employee, or their representative, the right to inspect or receive a copy of the most recent 3 months of that employee's personal work speed data, as provided. The bill would require an employer, at the time of hiring, to provide each employee with written notice of the employee's right to comply with health and safety laws without retaliation, the requirement that actions taken by an employee to comply with health and safety laws be considered productive work time, and the employee's right to file a complaint with the commissioner or the Division of Occupational Safety and Health. The bill would also authorize a current or former employee to bring an action for injunctive relief to obtain compliance with these requirements and to recover costs and reasonable attorney's fees.

Under existing law, the California Occupational Safety and Health Act of 1973, the Division of Occupational Safety and Health investigates complaints that a workplace is not safe and may issue orders necessary to

ensure employee safety. Under existing law, certain violations of that act or a standard, order, or special order authorized by the act are a crime.

This bill would require the ~~division~~ *division, by January 1, 2023*, to propose to the Occupational Safety and Health Standards Board for the board's review and adoption a standard that minimizes the risk of ~~illness and injury~~ *musculoskeletal injuries and disorders* among employees working in warehouse distribution ~~centers that employ production quotas, as provided.~~ *centers, as provided.*

Because this bill would expand the definition of an existing crime, it would impose a state-mandated local program. *The bill would also require the division, when an employee files a complaint, to provide the employee with a written notice containing specified information regarding their rights.*

Argument in support:

According to the author, "Over the last year, Californians have relied on warehouse employees more than ever to distribute food and supplies that have kept the state going throughout the COVID-19 pandemic. However, increased demand for e-commerce giants like Amazon to provide the fastest deliveries at the lowest cost has created a race to the bottom and accelerated the decline in warehouse working conditions. These corporations have collected record profits during the pandemic, while their warehouse employees have been expected to do more, go faster, and work harder without clear safety standards in place. It's no surprise that such brutal production quotas have contributed to soaring rates of serious workplace injuries. It's unacceptable for the largest and wealthiest employers in the country to put workers' bodies and lives at risk just so consumers can get next-day delivery. [This bill] would strengthen warehouse workers' rights against arbitrary and abusive work quota systems by requiring companies to disclose work quotas to employees and state agencies, and establish statewide standards to minimize on-the-job injuries for employees working under strict quotas. [This bill] would specifically prohibit an employer from retaliating against or firing an employee for failing to meet a quota that would not allow a worker to comply with health and safety laws.

The Los Angeles County Federation of Labor, co-sponsors of this bill, argue that "Warehouse workers come from communities hit hardest by COVID-19 and economic downturn. These backbreaking conditions have significant implications for our communities of color with warehouse workers in California being 54% Latino and 9.5% Black. These communities are already struggling with lack of access to healthcare, inability to quarantine, and disproportionate illness and death from COVID-19. Many workers see no other job options and feel they must accept unsafe conditions to keep a roof over their heads. California must demand better from these companies. The biggest employers impact conditions across the industry. Right now, competition among companies like Amazon and Walmart is driving down workplace safety across the logistics industry. If we raise standards at the biggest companies, we can create good jobs throughout the industry, particularly in the communities that need them most."

Arguments in Opposition:

A coalition of employer organizations, including the California Chamber of Commerce, argue in opposition that "This bill will create a new private right of action based on vague standards, increase PAGA litigation, create a never-ending presumption of retaliation, and is based on fundamental misunderstandings of performance metrics.

Indeed, most jobs, across all industries, have some type of performance or production measurement to assist the employer in meeting the goals and obligations of the business to customers and business partners. There is nothing inherently nefarious about the use of such performance measures, in logistics or any other industry. This bill's disclosure requirements are logistically infeasible for many warehouse operations. In the warehouse context, employees are generally paid on an hourly basis. Performance measures establish planning goals to meet the requirements of the work that needs to be performed. Some workers may have individualized metrics they try to achieve, some may have metrics assigned to their entire team or their shift, or some may have no metrics at all. The variety here is considerable – making a one-size-fits-all notice requirement infeasible."

AB 701 will harm warehouses across California without appreciable benefits to safety.

Put simply, AB 701 will create a new private right of action based on vague standards, increase PAGA litigation, create a never-ending presumption of retaliation, and is based on fundamental misunderstandings of performance metrics.

AB 701 Creates a New Private Right of Action and PAGA Enforcement for Its Vague Standards.

AB 701 includes a host of new requirements and prohibitions for warehouse employers, and then relies on a combination of Private Attorney General Act (PAGA) and a new private right of action to enforce its terms.

AB 701 Creates a Presumption of Retaliation That Is Potentially Never-Ending.

AB 701 includes a presumption of retaliation if an employer takes any adverse action within 90 days of an employee “exercising any right under this part.”

AB 701 Creates a Host of New Notice and Disclosure Requirements That Will Not Increase Safety.

AB 701 also creates new obligations for employers to provide an array of notices at hiring (Section 2108), as well as on a potentially daily basis related to exact workload expectations

AB 701 Creates Two New Regulations Aimed at the Unprecedented Goal of Controlling Exactly How Quickly a Warehouse May Function.

In simple terms – AB 701 is drafted to force Cal/OSHA to define production quotas for warehouse employers, which is unprecedented. Neither Cal/OSHA, nor the Labor Commissioner has ever before been given authority to reach into a workplace and define the rate of work to that degree.

Support: (Verified 5/12/2021)

California Employment Lawyers Association California IATSE Council California Immigrant Policy Center California Labor Federation California Rural Legal Assistance Foundation, INC. California State Council of Service Employees International Union California Teamsters Public Affairs Council (CoSponsor) California Work & Family Coalition Center for Workers' Rights Center on Policy Initiatives Central Coast Alliance United for A Sustainable Economy Centro Legal De LA Raza Clean Carwash Campaign Clergy and Laity United for Economic Justice Communities for A Better Environment Courage California CPI Democratic Socialists of America - Los Angeles Entertainment Union Coalition Garment Worker

Center IATSE Local 80 Jobs to Move America KIWA (Koreatown Immigrant Workers Alliance) LAANE (Los Angeles Alliance for A New Economy) Los Angeles County Federation of Labor (CoSponsor) National Employment Law Project Organize Sacramento Partnership for Working Families People's Collective for Environmental Justice Southern California Cosh Teamsters Local 396 Techequity Collaborative United Food and Commercial Workers, Western States Council United for Respect University Council-American Federation of Teachers Warehouse Worker Resource Center (CoSponsor) Working Partnerships USA

Opposition: (Verified 5/12/2021)

Auto Care Association California Beer and Beverage Distributors California Business Properties Association California Chamber of Commerce California Farm Bureau California Framing Contractors Association California Grocers Association California League of Food Producers California Manufacturers & Technology Association

California Retailers Association California Trucking Association Cawa - Representing the Automotive Parts Industry Civil Justice Association of California International Council of Shopping Centers International Warehouse Logistics Association Naiop, the Commercial Real Estate Development Association Western Growers Association

Status: Assembly Committee on Appropriations (passed Labor & Employment)

Legislative Item #4

Action

[AB 995, as introduced, Lorena Gonzalez. Paid sick days: accrual and use](#)

Recommended action: OPPOSE
Presentation: Gene Wunderlich

Summary:

Costly Sick Leave Expansion on All Employers. Imposes new costs and leave requirements on employers of all sizes, by expanding the number of paid sick days employers are required to provide, which is in addition to all of the recently enacted leave mandates (COVID-19 sick leave, Cal/OSHA emergency paid time off, CFRA leave, workers' compensation, etc.) that small employers throughout the state are already struggling with to implement and comply. CALChamber **JOB KILLER**

Expands the state's paid sick leave program to provide an employee with no less than 40 hours or five days of sick leave by the 200th calendar day of employment.

Background:

Existing law, with certain exceptions, entitles an employee to paid sick days for certain purposes if the employee works in California for the same employer for 30 or more days within a year from the commencement of employment. Existing law requires the leave to be accrued at a rate of no less than one hour for every 30 hours worked, and to be available for use beginning on the 90th day of employment.

Existing law authorizes an employer to use a different accrual method as long as an employee has no less than 24 hours of accrued sick leave or paid time off by the 120th calendar day of employment or each calendar year, or in each 12-month period. Existing law also provides that an employer may satisfy the accrual requirements by providing not less than 24 hours or 3 days of paid sick leave that is available to the employee to use by the completion of the employee's 120th calendar day of employment.

Under existing law, an employer has no obligation under these provisions to allow an employee's total accrual of paid sick leave to exceed 48 hours or 6 days, provided that an employee's rights to accrue and use paid sick leave are not otherwise limited, as specified. Under existing law, sick leave carries over to the following year of employment, but an employer is permitted to limit the use of the carryover amount, in each year of employment, calendar year, or 12-month period, to 24 hours or 3 days.

This bill would modify the employer's alternate sick leave accrual method to require that an employee have no less than 40 hours of accrued sick leave or paid time off by the 200th calendar day of employment or each calendar year, or in each 12-month period. The bill would modify that satisfaction provision to authorize an employer to satisfy accrual requirements by providing not less than 40 hours or 5 days of paid sick leave that is available to the employee to use by the completion of the employee's 200th calendar day of employment. The bill would also provide that an employer is under no obligation to allow an employee's total accrual of paid sick leave to exceed 80 hours or 10 days, as specified. The bill would raise the employer's authorized limitation on the employee's use of carryover sick leave to 40 hours or 5 days.

Existing law establishes that providers of in-home supportive services accrue sick leave in accordance with a schedule that is based on the timeline for state minimum wage increases, up to a maximum of 24 hours or 3 days when the minimum wage reaches \$15 per hour.

This bill would amend the schedule for in-home supportive services providers to increase the sick leave accrual maximum to 40 hours or 5 days in each year of employment, beginning January 1, 2026.

The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

Argument in support:

According to the author, "California was a national leader in establishing earned sick leave for every employee in the state. Now, it's time we caught up to other cities and states that have recognized the need for, and have

successfully passed, more expansive leave policies for workers. Californians are increasingly living in multigenerational homes, attempting to juggle caregiving and parenting responsibilities while holding down two or three jobs. Even a few unpaid days off can cost a family their entire monthly budget for groceries or utility bills. In times of illness, workers shouldn't have to resort to going to the emergency room for medical care because they couldn't take time off during the workday, or worse, neglecting their health out of fear of losing income. Businesses suffer when employees report to work while sick and risk infecting customers and their coworkers. Our state must adapt to the reality facing today's working families and guarantee a stronger safety-net for workers that also protects public health. AB 995 would ensure workers aren't in the vulnerable position of choosing between coming to work sick and risking their family's livelihood by allowing all California workers the ability to use at least five paid sick days each year."

A coalition of social and economic justice organizations, including Legal Aid at Work, argues in support, "AB 995 would require employers to allow employees to use 5 or more paid sick days without wage loss or retaliation. We believe that this will lead to a healthier, more productive workforce, and protect public health by significantly reducing the spread of communicable diseases in the workplace. Unlike most other developed nations, the United States does not have national standards on paid sick leave. Before the Healthy Workplaces, Healthy Families Act of 2014 was signed into law, nearly 6.5 million workers in California did not have access to any paid sick leave. Since then, working Californians have been able to earn a minimum of three days of sick leave a year."

Argument in opposition:

A coalition of employer organizations argues in opposition, "AB 995 would impose significant costs on small businesses by amending the Healthy Workplaces, Healthy Families Act (the Act) to increase the number of paid sick days employers are required to provide from 3 days to 5 days, increase the cap that employers can place on paid sick days from 6 days to 10 days, and increase the number of paid sick days an employer can roll over to the next year from 3 days to 5 days. Those businesses that can afford to offer more than three days of sick leave are doing so, but not all businesses can absorb that cost right now.

This is especially true given that Governor Newsom just signed SB 95, which imposes a burdensome new 80-hour COVID-19 related leave requirement that is retroactive to January 1st. Businesses struggling to keep their doors open or hire back employees who were laid off due to COVID-19 closures need relief from this seemingly endless increase in leave mandates."

California Employers, Especially Small Employers, Cannot Afford Yet Another Mandated Increase in Benefits:

It is estimated that about 44% of small businesses are at risk of shutting down permanently as a result of the COVID-19 pandemic. Small business revenue is down more than 30% in California, with some sectors being down more than 70%

While one more paid benefit may not seem significant in isolation, this mandate must be viewed in the context of all of California's other leaves and paid benefits.

California already has numerous protected, overlapping leaves and benefits requirements.

Expanding Paid Sick Leave Will Impose More Administrative Burdens on Employers:

The Act's complex accrual system already poses an administrative burden to employers and AB 995 will increase that burden.

California Should Incentivize Paid Sick Leave, Not Mandate It:

Given the cumulative costs and existing protected leaves of absence with which California employers are already struggling to comply, California should refrain from mandating additional sick days and instead should provide incentives to employers to offer more expansive sick day benefits by reducing costs in other areas.

Support: (Verified 5/12/2021)

AARP AARP California Alzheimer's Association
Association of California Caregiver Resource Centers Bay
Area Regional Health Inequities Initiative Breastfeedla
California Conference Board of The Amalgamated Transit
Union California Conference of Machinists California
Employment Lawyers Association California Immigrant
Policy Center California Labor Federation California
National Organization for Women California Pan-ethnic
Health Network California Partnership to End Domestic
Violence California State Council of Service Employees
International Union California Teamsters Public Affairs
Council California Wic Association California Women's Law
Center California Work & Family Coalition Centro Legal De
LA Raza Child Care Law Center Clergy and Laity United for
Economic Justice East Bay Alliance for A Sustainable

Economy Engineers & Scientists of California, Local 20,
IFPTE Family Caregiver Alliance Friends Committee on
Legislation of California Human Impact Partners Jewish
Center for Justice LA Best Babies Network Laane (los
Angeles Alliance for A New Economy) Legal Aid At Work
Legal Aid of Marin Macla/Movimiento De Arte Y Cultura
Latino Americana Mi Familia Vota Orange County Equality
Coalition Parent Voices CA Physicians for Social
Responsibility - Los Angeles Professional and Technical
Engineers, IFPTE Local 21 Public Counsel Restaurant
Opportunities Centers of California The Restaurant
Opportunities Center of Los Angeles UDW/AFSCME Local
3930 Unite Here International Union Utility Workers Union
of America West Valley Community Services Working
Partnerships USA Worksafe

Opposition: (Verified 5/12/2021)

Associated General Contractors Auto Care Association
California Association for Health Services At Home
California Beer and Beverage Distributors California Building
Industry Association California Chamber of Commerce
California Farm Bureau California Grocers Association
California Landscape Contractor's Association California
Manufacturers and Technology Association California
Restaurant Association California Trucking Association
CAWA - Representing the Automotive Parts Industry Civil
Justice Association of California Construction Employers'
Association Family Winemakers of California Fremont
Chamber of Commerce Garden Grove Chamber of
Commerce Greater Bakersfield Chamber of Commerce
Greater Coachella Valley Chamber of Commerce Greater
Conejo Valley Chamber of Commerce Greater Riverside
Chambers of Commerce Greater San Fernando Valley
Chamber of Commerce Housing Contractors of California
Long Beach Area Chamber of Commerce National

Federation of Independent Business National Tooling and
Machining Association - Los Angeles Chapter National
Tooling and Machining Association - San Fernando Valley
Chapter National Tooling and Machining Association - San
Francisco Bay Area Chapter North Orange County Chamber
of Commerce Oceanside Chamber of Commerce Official
Police Garages of Los Angeles Oxnard Chamber of
Commerce Pleasanton Chamber of Commerce Rancho
Cordova Chamber of Commerce Redondo Beach Chamber
of Commerce Roseville Area Chamber of Commerce San
Gabriel Valley Economic Partnership Santa Maria Valley
Chamber of Commerce Simi Valley Chamber of Commerce
South Bay Association of Chambers of Commerce South
Orange County Economic Coalition Torrance Area Chamber
of Commerce Tulare Chamber of Commerce Union Roofing
Contractors Association Western Car Wash Association
Wine Institute

Status: Assembly Committee on Appropriations (passed Labor & Employment)

Legislative Item #5	Action
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AB 1119 (Wicks) – Employment discrimination (as amended)

Recommended action: OPPOSE
Presentation: Gene Wunderlich

Summary:

Expansion of Duty to Accommodate Employees and Litigation Under FEHA. **Imposes new burdens on employers to accommodate any employee with family responsibilities**, which will essentially **include a new, uncapped**

protected leave for employees to request time off for things such as school drop-off or pick-up, and exposes employers to costly litigation under the Fair Employment and Housing Act that any adverse employment action was in relation to the employee's family responsibilities, rather than a violation of employment policies. **JOB KILLER**

Expands the anti-discrimination provisions of the Fair Employment and Housing Act (FEHA) to include an applicant or employee's family responsibilities and requires an employer to engage in an interactive process to reasonably accommodate such responsibilities that are known to the employer.

Description:

Existing law, the California Fair Employment and Housing Act (FEHA), protects the right to seek, obtain, and hold employment without discrimination because of prescribed characteristics. FEHA makes various employment practices unlawful and empowers the Department of Fair Employment and Housing to investigate and prosecute complaints alleging unlawful practices.

This bill would expand the protected characteristics to include family responsibilities, defined to mean the obligations of an employee to provide direct and ongoing care for a minor child or a care recipient. The bill would define additional terms for this purpose.

FEHA makes it an unlawful practice for an employer or other entity to fail to make reasonable accommodation for the known physical or mental disability of an applicant or employee. FEHA further makes it an unlawful practice for an employer or other entity to fail to engage in a timely, good faith, interactive process with the employee or applicant to determine effective reasonable accommodations, if any, in response to a request for reasonable accommodation by an employee or applicant with a known physical or mental disability or known medical condition.

This bill would ~~expand those reasonable accommodation protections to include, as a basis for~~ *additionally make it an unlawful practice for an employer or other entity to fail to make reasonable accommodation, and for engaging in the prescribed to fail to engage in a timely, good faith, interactive* process to determine effective reasonable accommodations, the known family responsibilities of an applicant or employee related to obligations arising from ~~needing an unforeseen need~~ to care for a minor child or care recipient whose school or place of care is closed or otherwise unavailable. *The bill would also make it an unlawful practice for an employer or other entity to retaliate or otherwise discriminate against a person for requesting accommodation under the bill's provisions, regardless of whether the request was granted.*

Argument in support:

The California Employment Lawyers Association ("CELA"), Equal Rights Advocates ("ERA"), and Legal Aid at Work, sponsors of the bill, argue in support, "Family responsibilities discrimination (FRD) affects employees of every income level, race, gender, and industry. Working mothers and pregnant people, though, are most likely to experience FRD, with low wage earners and people of color disproportionately impacted. One study found mothers were 79% less likely to be recommended for hire, half as likely to be promoted, and offered an average of \$11,000 less in salary for the same position as similarly qualified non-mothers.

For example, one mother of a young infant reported that she was furloughed at the start of the pandemic. When the rest of the staff was called back, she was told to stay on unemployment. Prior to the pandemic, mothers found they were passed over for promotion or had job offers rescinded when companies learned about their caregiving responsibilities. Fathers who took paternity leave found they were returning to hostile managers seeking to push them out. AB 1119 addresses family responsibilities discrimination by simply prohibiting the disparate treatment of employees because of their family responsibilities. In other words, the bill prohibits employers from treating a worker adversely based on assumptions or stereotypes associated with their family responsibilities. Specifically, the bill would add "family responsibilities" to the list of protected characteristics (e.g., race, sexual orientation, marital status, religion, etc.) that are already prohibited bases of discrimination under the employment provisions of the Fair Employment and Housing Act (FEHA)."

Argument in opposition:

A coalition of employer organizations, including the California Chamber of Commerce, states in opposition, “AB 1119 amends FEHA to require employers to provide reasonable accommodations to any employee who has family responsibilities. ‘Family responsibilities’ is broadly defined as ‘the obligations of an employee to provide direct and ongoing care for a minor child or a care recipient.’ A ‘care recipient’ can be any person who resides in the employee’s household and relies on the employee for medical care or the needs of daily living. This mandate basically requires an employer to provide an employee with unlimited time off from work for family responsibilities.’

Specifically, under this proposal, an employee would be entitled to request daily or weekly time off from work as an accommodation to care for a minor child or other recipient. That could include picking up a child every day from school or taking an unlimited number of days off to stay home with a child instead of obtaining daycare. Every parent working for an employer would have the same right to request these accommodations. An employer could find themselves with half of their staff asking to be off work by 3 pm every day when the local K-12 schools end classes. The employer would be required to accommodate all of those employees, putting them in an impossible position to try to continue business operations understaffed or to decide who they can accommodate and who they cannot. Any denial of time off as an accommodation would expose the employer to costly litigation.”

AB 1119 Imposes a New, Uncapped Protected Leave Requirement on Small Employers:

AB 1119 amends FEHA to require employers to provide reasonable accommodations to any employee who has family responsibilities. “Family responsibilities” is broadly defined as “the obligations of an employee to provide direct and ongoing care for a minor child or a care recipient.” A “care recipient” can be any person who resides in the employee’s household and relies on the employee for medical care or the needs of daily living.

Leave Under AB 1119 Would Be Stacked On Top of Other Existing Leave Mandates:

Any time off an employee receives as an accommodation under FEHA would not run concurrently with the other California leaves of absence. An employee who requested a month off under AB 1119 as a reasonable accommodation would still have 12 weeks of leave under the California Family Rights Act, 12 weeks of leave under the Family and Medical Leave Act, paid sick leave, and all other existing leaves to care for children/family members

New, Protected Classification Would Limit Employers’ Ability to Enforce Employment Policies:

AB 1119 also proposes to add any individual with “family responsibilities” as a new protected classification under FEHA. Adding a new classification to the list under FEHA would limit an employer’s ability to enforce all employment policies, such as attendance policies.

AB 1119 Exposes Employers to Costly Litigation:

FEHA includes a separate and independent private right of action for any alleged discrimination against a protected classification, failure to accommodate, or failure to engage in the interactive process to identify an accommodation. Each claim brings a separate opportunity for compensatory damages, injunctive relief, declaratory relief, punitive damages, and attorney’s fees. Under AB 1119, an employee whose accommodation request was denied could sue for discrimination, failure to engage in the interactive process, retaliation, and failure to provide a reasonable accommodation.

Small Employers Cannot Afford Another Costly Mandate:

FEHA applies to all employers with five or more employees.

Support: (Verified 5/12/2021)

California Employment Lawyers Association (Co-Sponsor)
Equal Rights Advocates (Co-Sponsor) Legal Aid At Work
(Co-Sponsor) AARP Access Reproductive Justice
American Association of University Women - California AB

1119 Page 5 Association of California Caregiver Resource
Centers Breastfeedla California Immigrant Policy Center
California Labor Federation California Partnership to End
Domestic Violence California Teachers Association

California Women's Law Center Citizens for Choice
Consumer Attorneys of California Family Caregiver Alliance
Friends Committee on Legislation of California Human
Impact Partners Jewish Center for Justice LA Best Babies
Network LAANE Naral Pro-choice California National

Council of Jewish Women CA National Council of Jewish
Women Los Angeles Organization of Smud Employees Our
Family Coalition Prevention Institute Public Counsel
Restaurant Opportunities Centers of California

Opposition: (Verified 5/12/2021)

Associated General Contractors Brea Chamber of
Commerce California Apartment Association California Beer
and Beverage Distributors California Building Industry
Association California Chamber of Commerce California
Farm Bureau Federation California Food Producers
California Landscape Contractor's Association California
Manufacturers & Technology Association California New
Car Dealers Association California Restaurant Association
California Retailers Association California State Council of
The Society for Human Resource Management (CALSHRM)
Carlsbad Chamber of Commerce Civil Justice Association of
California Construction Employers' Association El Dorado
Hills Chamber of Commerce Family Winemakers of
California Folsom Chamber of Commerce Garden Grove
Chamber of Commerce Greater Bakersfield Chamber of
Commerce Greater Coachella Valley Chamber of
Commerce Greater High Desert Chamber of Commerce

Greater Riverside Chambers of Commerce Housing
Contractors of California Long Beach Area Chamber of
Commerce Murrieta Wildomar Chamber of Commerce
National Federation of Independent Business North Orange
County Chamber of Commerce North San Diego Business
Chamber Oceanside Chamber of Commerce Official Police
Garages of Los Angeles Orange County Business Council
Oxnard Chamber of Commerce Pleasanton Chamber of
Commerce Public Risk Innovation, Solutions, and
Management Rancho Cordova Chamber of Commerce
Redondo Beach Chamber of Commerce & Visitors Bureau
San Gabriel Valley Economic Partnership Santa Maria
Valley Chamber of Commerce Santa Rosa Metro Chamber
of Commerce Simi Valley Chamber of Commerce South Bay
Association of Chambers of Commerce Torrance Area
Chamber of Commerce Tulare Chamber of Commerce
Western Car Wash Association

Status: Assembly Committee on Appropriations (passed Labor and Employment, Judiciary)

Legislative Item #6

Action

AB 1371 (Friedman) – Recycling: plastic: packaging and carryout bags

Introduced by Assembly Members Friedman, Lorena Gonzalez, and Ting
(Principal coauthors: Assembly Members Bloom, Carrillo, and Kalra)
(Principal coauthors: Senators Allen and Stern)
(Coauthors: Assembly Members Quirk, Luz Rivas, and Stone)
(Coauthor: Senator Wiener))

Recommended action: OPPOSE
Presentation: Gene Wunderlich

Summary:

Extended Producer Responsibility and Packaging Ban. Would require small and large online retailers alike to setup a vast network of collection bins for certain packaging materials at every physical retail location in California. Then, the bill bans those very packaging materials from being able to be sold or distributed in California two years later without regard for inadequate substitutes, regrettable substitutes, more waste created by spoilage and breakage and additional GHG emissions from much heavier packaging.

Prohibits online retailers from using single-use plastic packaging in the state. Reinstates the at-store recycling program for plastic bags.

Description:

The California Integrated Waste Management Act of 1989, administered by the Department of Resources Recycling and Recovery, generally regulates the disposal, management, and recycling of solid waste, including, among other solid waste, single-use plastic straws.

This bill would prohibit an online retailer that sells or offers for sale and delivers purchased products in or into the state from using single-use plastic packaging that consists of shipping envelopes, cushioning, or void fill to package or transport the products, on and after January 1, 2023, for large online retailers, as defined, and on and after January 1, 2025, for small online retailers, as defined. The bill would prohibit a manufacturer, retailer, producer, or other distributor that sells or offers for sale and delivers purchased products in or into the state from using expanded polystyrene packaging to package or transport the products.

The bill would require an online retailer that has at least one physical location in the state with in-person sales to provide at all physical locations in the state with in-person sales a take back container for plastic film and expanded polystyrene packaging that provides an opportunity for a customer to return to the location clean plastic film and expanded polystyrene packaging.

The bill would require an online retailer that provides lockers for the secure pickup of purchased products at a store to provide a collection bin at the store near the lockers for the purpose of collecting and recycling plastic film and expanded polystyrene packaging. The bill would require an online retailer that delivers purchased products to customers in this state to have an at-delivery recycling program that provides for the pickup at the time of delivery of plastic film and expanded polystyrene packaging for products previously purchased from the online retailer, at no cost to the customer.

The bill would require an online retailer to maintain records describing the collection, transport, and recycling of plastic film and expanded polystyrene packaging pursuant to these provisions for one year and to make the records available to the department and the local jurisdiction, upon request. The bill would make the physical location take back container requirement, locker collection bin requirement, and at-delivery recycling program requirement inoperative on January 1, 2025, except for the records provisions, and would repeal those 3 requirements, including the records provisions, as of January 1, 2026.

The bill would make a violation of the foregoing requirements subject to civil penalties and would require penalties collected by the Attorney General to be deposited into the Plastic Packaging Reduction Penalty Account, which the bill would create, for expenditure by the Attorney General, upon appropriation by the Legislature, to enforce those requirements.

Existing law prohibits stores, including convenience food stores, foodmarts, and other specified entities that have a specified amount of sales in dollars or retail floor space from providing a single-use carryout bag to a customer and prohibits those stores from selling or distributing a recycled paper bag at the point of sale unless the store makes the bag available for purchase for not less than \$0.10.

This bill would establish the At-Store Recycling Program. The bill would require an operator of a store, as defined, to establish an at-store recycling program that provides persons the opportunity to return clean plastic carryout bags and clean durable plastic bags to the store. The bill would require a plastic carryout bag or a durable plastic bag provided by a store to have specified information printed or displayed on the bag, and would require the placement of a collection bin in each store that is visible and easily accessible to the consumer.

The bill would require a store to maintain records describing the collection, transport, and recycling of plastic bags pursuant to these provisions for 3 years and to make the records available to the department and the local jurisdiction, upon request. The bill would make a violation of these requirements subject to civil penalties and would require penalties collected by the Attorney General to be deposited into the At-Store Recycling Program Penalty Account, which the bill would create, for expenditure by the Attorney General, upon appropriation by the Legislature, to enforce those requirements.

The bill would make these requirements, except for the records and civil penalty provisions, inoperative on January 1, 2030, and would repeal the provisions, including the records and civil penalty provisions, as of January 1, 2033.

Arguments in support:

According to the author: Globally, the e-commerce industry used nearly 2.1 billion pounds of plastic packaging in 2019 and of that, e-commerce businesses in the U.S. generated 469 million pounds of plastic packaging waste. And in 2020, consumers spent \$861 billion online with U.S. merchants, up 44% over 2019. With almost a third of the world's population now buying online, the amount of plastic packaging generated is estimated to double by 2025. This staggering growth – expected to outlast the pandemic – is creating a wave of single-use packages and packaging, almost all of which is headed for landfill, incineration, or the environment where it pollutes waterways and oceans. As an online retail consumer, I have been appalled at the amount of plastic packaging that accompanies my orders. No one wants these materials. We can't put them in our recycling bins, and they are overflowing curbside trash bins and taken to landfills at a huge expense to local governments. We know we can do better here in California, because alternatives already exist and are being implemented elsewhere. In the meantime, companies must provide options for people to bring their packaging and plastic bags back to the retailers that use it and ensure they are recycling those materials.

Approximately 33 billion pounds of plastic waste enter marine environments globally each year. A significant driver of this waste stems from the fact that many plastic products are nearly impossible to recycle, thus the only means of disposing the waste is in a traditional landfill, which may result in some of the plastic seeping into the environment. The growing use of plastic in shipping materials, due to its light weight and affordability, is further driving this crisis as online retail grew significantly during the pandemic.

This bill is sponsored by Oceana and is strongly supported by a broad coalition of environmental and product stewardship organizations. The supporters point out the significant amount of plastic waste generated in California as a result of customer confusion and a difficult recycling market. They contend this bill, particularly provisions aimed at recapturing used plastic, will help well-meaning consumers ensure that plastic is recycled or reused and not redirected to a landfill or elsewhere in the natural environment.

Arguments in opposition:

This bill is opposed by a coalition of manufacturing organizations, shipping companies, retailers, internet organizations, and the California Chamber of Commerce. In opposition to the bill, the coalition's letter states: As drafted, AB 1371 would ban the use of several types of packaging materials used to ship products between retailers and customers, as well as for business-to-business transactions. Though **we appreciate the intent of this legislation**, we believe it is important to implement a policy that takes into account the necessary role packaging plays in shipping and protecting products, assesses the multitude of environmental attributes (e.g. recyclability, waste prevention, material efficiency, greenhouse gas emissions, etc.) of various packaging materials and arrives at a solution that makes sense environmentally and provides the regulated community with practical and implementable compliance obligations.

A blanket prohibition on certain packaging materials does not fully consider potential unintended environmental impacts and in fact, may lead to increased waste as a result of product breakage or spoilage. For example, expanded polystyrene plays a critical role in the shipment of large, high value products such as televisions and appliances for which no economically viable alternative exists. A ban on expanded polystyrene could result in increased environmental impacts from damaged products. We do believe there is an opportunity to strike the right balance, including identifying policies to ensure that transport and e-commerce packaging is managed appropriately. These policies could include establishing minimum recycling and recovery rate requirements such as requiring all e-commerce packaging to be recyclable or compostable by 2030; setting practical post-consumer recycled requirements to help develop domestic markets for these materials; implementing improvements to the state's recycling infrastructure, including expanding the network of consumer drop-off opportunities for these types of packaging materials; and maximizing the use of

advanced recycling technologies so that even more material can be recovered and used as feedstock to make new products.

Support: (Verified 5/12/2021)

Oceana (sponsor) 350 Humboldt California Interfaith Power and Light California League of Conservation Voters California Product Stewardship Council Californians Against Waste CALPIRG Center for Food Safety Friends Committee on Legislation of California Greentown Los Altos Heal the Bay Northern California Recycling Association Oceana Plastic Oceans International Plastic

Pollution Coalition San Francisco Bay Area Physicians for Social Responsibility Save Our Shores Seventh Generation Advisors Sierra Club California Surfrider Foundation The 5 Gyres Institute The Center for Oceanic Awareness, Research, and Education The Climate Center The Last Plastic Straw Upstream Wholly H2O Wishtoyo Chumash Foundation Zero Waste, USA

Opposition: (Verified 5/12/2021)

American Chemistry Council American Institute for Packaging and Environment California Chamber of Commerce California League of Food Processors California Manufacturing & Technology Association California Retailers Association California Trucking Association

Consumer Technology Association Flexible Packaging Association Internet Association Plastics Industry Association ProAmpac Holdings, Inc. Sealed Air Corporation Technet Western Plastics Association Wikoff Color Corp.

Status: Assembly committee on Appropriations (passed Natural Resources, Judiciary)

Legislative Item #7	Action
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[SB 82, as amended, Skinner. Petty theft \(as amended\)](#)

Recommended action: OPPOSE
Presentation: Gene Wunderlich

Summary:

SB 82 deems all robberies without great bodily injury to be misdemeanors and it is retroactive. The purpose of this bill is to require theft of property that is valued under \$950 where specified circumstances are not present to be charged as a misdemeanor.

SB 82 would define the crime of petty theft in the first degree; require specified conduct to be charged as such, except as specified; and allow a person who has been convicted of robbery where the conduct meets the elements of first-degree petty theft to petition to vacate that sentence,

Description:

Existing law, the Safe Neighborhoods and Schools Act, enacted as an initiative statute by Proposition 47, as approved by the electors at the November 4, 2014, statewide general election, requires the theft of money, labor, or property to be considered petty theft, punishable as a misdemeanor by up to 6 months in county jail, a fine of up to \$1,000, or both, whenever the value of the property taken does not exceed \$950 or in other cases that are specifically defined as grand theft.

This bill would define the crime of petty theft in the first degree as taking the property from the person of another or from a commercial establishment by means of force or fear without the use of a deadly weapon or great bodily injury. *The bill would specifically exclude from the crime of petty theft in the first degree acting in concert with one or more persons to steal merchandise from one or more merchant's premises or online marketplace with the intent to sell, exchange, or return the merchandise for value.* The bill would define the crime of petty theft in the 2nd degree as all other petty theft. The bill would impose a penalty of imprisonment in county jail for up to one year, a \$1,000 fine, or both, for petty theft in the first degree and would prohibit an act of petty theft from being charged as robbery or burglary. By creating a new crime, this bill would impose a state-mandated local program.

This bill would provide a means of vacating the sentence of, and resentencing, a currently incarcerated defendant who had been convicted of robbery, who was sentenced under an alternative sentencing scheme based on one or more prior convictions for robbery, or whose sentence includes an enhancement based on one or more prior convictions for robbery and who would not be convicted of robbery based on the changes made in this bill. The bill would also provide a means of vacating the sentence of, and resentencing, a person who had previously served a term of imprisonment for robbery and who would not be convicted of robbery based on the changes made in this bill. By requiring the participation of district attorneys and public defenders in the resentencing process, this bill would impose a state-mandated local program.

Arguments in support:

According to the author of this bill: California's robbery statute has not been updated since 1872. The 150-year-old definition of robbery still allows people to be sentenced to substantial terms in prison for minor petty thefts where the incident involved a perception of fear or a very minimal use of force. Current law allows prosecutors to charge some types of simple theft such as shoplifting or snatching a cell phone as felony robbery. The blurred interpretation between robbery and theft has resulted in convictions and lengthy prison sentences disproportionate to the crime.

Under current law, a person who used minimal "force" or was perceived to invoke "fear" during a petty theft can be charged and convicted of robbery, which is a felony. The terms "force" and "fear" can be interpreted loosely. For example, someone accused of having made a verbal threat during a shoplifting incident, even when no force was used and no weapon was involved, can be charged with robbery. Likewise, if the person accused of shoplifting bumps into another customer or security guard while running out of the store causing no serious injury, their charge can be elevated to robbery.

Individuals experiencing a mental health crisis or who have a developmental disability also have a higher likelihood of having their charge include force or fear. Under current law, prosecutors can elect not to charge robbery when minimal force is used. However, that discretion is not always exercised resulting in many shoplifting or other petty theft crimes being elevated to robbery, a felony that carries up to a five year prison sentence. SB 82 sets to establish a clear distinction between theft and robbery by creating a second category of petty theft for cases where no weapon was used and no one was seriously injured, but where there may have been an inadvertent use of force or perceived fear.

According to Prosecutors Alliance of California: California's robbery statute has not been updated since 1872, and still allows people to be sentenced to substantial terms in prison for minor thefts in cases where the incident involved a perception of fear or a very minimal use of force. This allows prosecutors to charge some types of simple theft, such as shoplifting or snatching a cell phone, as felony robbery. The blurred interpretation between robbery and theft has resulted in convictions and lengthy prison sentences disproportionate to the crime.

SB 82 will establish a clear distinction between theft and robbery by creating a second category of petty theft for cases where no deadly weapon was used and no one was seriously injured, but where there may have been an inadvertent use of force. The Committee on the Revision of Penal Code, which includes judges in its membership, discussed at length the need to address the problem of theft being charged as robbery and

recommended the code changes contained in SB 82. New York, Oregon, Illinois and Texas are among the states that have enacted similar statutes.

Arguments in opposition:

According to the Alameda County District Attorney: **The answer to this issue is not to essentially eliminate the crime of robbery, which is violent.** Rather, the answer is to provide resource options to the offenders to stop the continued criminal conduct. You can hear more on my PODCAST “Justice For All” a 2-part series with repeat offenders who have been criminal justice involved and are now working within my programs to help other individuals to move beyond criminal justice. They move beyond criminal justice with the help and resources of organizations like my Office. They needed help and we provided it. My Office is very prudent in charging crimes. We have created several programs that are designed to move individuals out of the criminal justice system and into a productive pathway of their lives. We have had tremendous success in programs such as Early Intervention Court, Mentor Diversion, Alameda County Justice Restoration Court, Behavioral Health Court, Veterans Court and more.

These individuals, many of whom have committed and are charged with robbery, involving violent takings of property from another, have successfully removed themselves from the criminal justice system into a productive life. Their successful completion generally involves dismissal of the charges, with the knowledge of the victim of crime. We have utilized Restorative Justice processes; we have a partnership with Cypress Mandela, a job training program in Oakland and programs that provide life resources for those who have been criminal justice involved.

Support: (Verified 4/13/2021)

American Civil Liberties Union; Bend the Arc: Jewish Action; Communities United for Restorative Youth Justice; Drug Policy Alliance; Ella Baker Center for Human Rights; Fresno Barrios Unidos; Friends Committee on Legislation of California; Initiate Justice; Legal Services for Prisoners

With Children; Prosecutors Alliance of California; Re:Store Justice; Rubicon Programs; San Francisco Public Defender’s Office; Smart Justice California; Time for Change Foundation

Opposition: (Verified 4/13/2021)

Alameda County District Attorney’s Office
Riverside County District Attorney Mike Hestrin

Status: Senate Committee on Appropriations (suspense). (Passed Public Safety)

Legislative Item #8	Action
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[SB 260 \(Wiener\) – Climate Corporate Accountability Act \(as amended\)](#)

*Introduced by Senators Wiener and Stern
(Principal coauthors: Assembly Members Cristina Garcia and Kalra)
(Coauthor: Senator Min)
(Coauthors: Assembly Members Carrillo, Chiu, Friedman, Lee, Robert Rivas, Stone, and Ting)*

Recommended action: OPPOSE
Presentation: Gene Wunderlich

Summary:

Increased Regulatory Burden. Imposes a mandatory climate tracking, auditing, and cap on climate emissions that will fall heavily on all California businesses, impacting competitiveness and increasing costs.

Requires companies, as specified, with over \$1 billion in annual revenues who do business in California to report their direct and indirect greenhouse gas (GHG) emissions from their operations and supply chain to the Air Resources Board (ARB). Further requires ARB to develop regulations directing the above companies to also set “science-based emissions targets,” as defined, and to reduce their GHG emissions in line with what is required to maintain global warming of less than 1.5 degrees Celsius above preindustrial levels.

Description:

The California Global Warming Solutions Act of 2006 requires the State Air Resources Board to adopt regulations to require the reporting and verification of statewide greenhouse gas emissions and to monitor and enforce compliance with the act. The act requires the state board to make available, and update at least annually, on its internet website the emissions of greenhouse gases, criteria pollutants, and toxic air contaminants for each facility that reports to the state board, as provided. ~~The act provides that any person who violates specified provisions of the act, as provided, is guilty of a misdemeanor and is punishable by a monetary fine, imprisonment in a county jail, or by both a fine and imprisonment.~~

This bill would require the state board, on or before January 1, 2023, to develop and adopt regulations requiring United States-based partnerships, corporations, limited liability companies, and other business entities with total annual revenues in excess of \$1,000,000,000 and that do business in California, defined as “reporting entities,” to publicly disclose, ~~on or before January 1, 2024, starting in 2024 on a date to be determined by the state board,~~ and annually thereafter, their greenhouse gas emissions, categorized as scope 1, 2, and 3 emissions, as defined, from the prior calendar year. **The bill would require reporting entities to disclose their greenhouse gas emissions in a manner that is easily understandable and accessible to residents of the state.**

The bill would require reporting entities to ensure that their public disclosures have been independently verified by a third-party auditor, approved by the state board, with expertise in greenhouse gas emissions accounting. The bill would require the state board, in developing these regulations, to consult with a panel of experts to determine standards and protocols to ensure that public disclosures are made in a manner that is easily understandable and accessible to state residents and for the state board to utilize to collect data for all scope 1, 2, and 3 emissions by reporting entities. ~~By expanding the scope of a crime under the act, the bill would impose a state-mandated local program. The bill would require the state board to adopt regulations relating to the enforcement of the above requirements, including the imposition of administrative civil penalties for a violation.~~

This bill would require the state board, on or before ~~January~~ July 1, 2025, to prepare a report on the greenhouse gas emissions of reporting entities that includes, among other specified topics, a best reasonable estimate of the required annual aggregated greenhouse gas emissions levels of reporting entities that would be necessary to maintain global temperatures within 1.5 degrees Celsius of preindustrial levels.

The bill would require the state board to create a digital platform that will house all reports prepared by the state board and submitted by reporting entities pursuant to these requirements.

Arguments in support”

According to the author, “SB 260, the Climate Corporate Accountability Act, requires public and private US-based corporations who do business in California and which have over \$1 billion in annual revenue to report their greenhouse gas emissions from their direct activities, the activities of their supply chain, and other major emission sources by 2024. Once this information is reported to the California Air Resources Board (CARB), a covered corporation will then have to work within a framework established by CARB to set a science-based emissions reduction target. Both the emissions disclosure and the emissions reduction target will be published publicly and accessible via an online platform.

“California has been at the forefront of climate policy in recent decades, establishing a successful cap and trade program, committing to preserve 30% of California’s lands in their natural state, and setting and achieving ambitious emission reduction targets. These reductions were partially met, and continue to be bolstered by the emission reporting requirements as laid out in the California Global Warming Solutions Act. These requirements, however, only apply to electricity generators, industrial facilities, fuel suppliers, and other major emitters, missing many sources of corporate pollution. Without the same requirements for these corporate entities, California is left without proper information and will not be able to accurately regulate and reduce these emissions. Filling this gap with detailed data regarding corporate activities is a crucial next step for the State to ensure that we continue to decrease the rampant greenhouse gases that are destroying our planet.

“California, like the rest of the world, is already deeply impacted by climate change, with worsening droughts, floods, and the unforgettable devastation brought on by an influx of massive wildfires – the top five largest wildfires in the State’s history have all occurred in 2018 or later. We no longer have the time to rely on massive corporations to voluntarily report their emissions, and cannot afford any possibility that the emissions we are being told about have been altered or manipulated to ensure a positive public-facing appearance for a particular company. Rather, these corporations must be required to transparently report their activities and the emissions associated with them. Californians are watching their State get irrevocably harmed by climate change, and they have a right to know who is at the forefront of the pollution causing this.

SB 260 would bolster California’s position as a leader on climate change, will allow for consumers to make informed decisions regarding their patronage of these corporations, and will give policymakers the specific data required to significantly decrease corporate emissions.”

According to one of the bill’s sponsors, Carbon Accountable, “... There is a gaping hole in California’s climate regulatory regime that allows major corporate GHG polluters to continue business as usual, without transparency or accountability. Filling the climate emissions information gap with detailed data from the activities of corporate emitters is a crucial next step for the state to achieve it...” “We estimate that the Climate Corporate Accountability Act would cover approximately 5,200 US public and private corporations, with combined annual revenues of over \$32 trillion USD, the vast majority of which do not report any of their GHG emissions publicly.”

Arguments in opposition:

According to the Silicon Valley Leadership Group, “The scale of GHG reductions emissions called for in the bill – Scopes 1 through 3, inclusive – also presents significant challenges. Scope 3 emissions, for instance, are extremely difficult to calculate and reduce. Further, companies covered by SB 260 that have operations and supply chains in states other than California and in other countries cannot consistently rely on a clean energy grid and other factors to reduce their emissions. “The Leadership Group has led among business organizations on numerous occasions to support other greenhouse gas reduction public policies. However, SB 260 would impose provisions that are duplicative, restrictive and better implemented in a uniform way at a national or international level. For this and the other previously stated reasons, the Leadership Group opposes SB 260.”

Although SB 260 contains a large threshold for applicability, the bill requires companies to track emissions not only for its California sites or products, but for worldwide operations.

SB 260 Will Impact Small and Medium Businesses

At first glance, SB 260 appears to limit its application to very large companies and the fact sheet and rhetoric in announcements and publications from the sponsors suggest that this is the intent. While we appreciate the intent to not impact businesses already struggling from the COVID-19 pandemic and economic decline, as one drills down into the definitions in the bill it becomes clear that SB 260 will have an impact all through the economy, including small and medium businesses, and that the majority of the burden will fall on California companies.

Duplicates Reporting and Caps Under Cap-and-Trade

Entities subject to cap-and-trade already collect, report, and cap their emissions, in accordance with AB 398, which still governs the cap-and-trade program. This bill would duplicate that effort for entities already subject to cap-and-trade.

Enforcement Issue Remain

SB 260 requires companies to track and report supply chain operations and employee commutes. With respect to tracking employee commutes, although employers are aware of the legal address of their employees, we foresee substantial problems with tracking daily commutes, asking which employees take public transit, the cars they drive, etc.

Jurisdictional Issues Will Mean the Burden of SB 260 Will Fall Predominantly on California Businesses

Finally, we are not aware of statutory authority that would provide the California Air Resources Board the authority to regulate out-of-state companies delivering goods to California. It seems likely that out-of-state or non-California companies could challenge such authority, or more likely, just not comply.

Support: (Verified 5/13/2021)

350 Bay Area Action 350 Sacramento Alliance of Nurses for Healthy Environments Audubon California Berkeley; City of California Alliance for Retired Americans California Environmental Justice League California Interfaith Power & Light California League of Conservation Voters Carbon Accountable Change Begins With Me Indivisible Group Cleaneearth4kids.org Climate Action Campaign Climate Center; the Climate Equity Policy Center Climate Reality San Francisco Bay Area Chapter Coalition for A California Green New Deal Coalition for Clean Air Courage California Defenders of Wildlife Elders Climate Action Nor Cal and Social Chapters Environmental Defense Fund Fossil Free

California Friends Committee on Legislation of California Friends of Harbors, Beaches and Parks Friends of Public Banking - Santa Rosa Friends of The Earth U.s. Green New Deal At Ucsd Greenbelt Alliance Los Angeles County Democratic Party Nature Conservancy; the Plug in America Rising Sun Center for Opportunity Romero Institute Sacramento Area Congregations Together San Francisco Baykeeper Save the Bay Sierra Club California Silicon Valley Youth Climate Action Sunrise Bay Area Sunrise Movement - Silicon Valley Sunrise Movement Bay Area UC Green New Deal Coalition Union of Concerned Scientists Upte-cwa

Opposition: (Verified 5/13/2021)

Agricultural Council of California Alliance for Automotive Innovation American Forest & Paper Association American Property Casualty Insurance Association Brea Chamber of Commerce Building Owners and Managers Association of California California Apartment Association California Bankers Association California Building Industry Association (CBIA) California Business Properties Association California Cement Manufacturers Environmental Coalition California Chamber of Commerce California Construction and Industrial Materials Association California Independent Petroleum Association (CIPA) California League of Food Producers California Manufacturers & Technology Association California Restaurant Association California Retailers Association Carlsbad Chamber of Commerce Chemical Industry Council of California El Dorado Hills

Chamber of Commerce Ema Truck & Engine Manufacturers Association Garden Grove Chamber of Commerce Harbor Association of Industry & Commerce Household and Commercial Products Association International Council of Shopping Centers Lodi Chamber of Commerce Long Beach Area Chamber of Commerce Madera; County of Naiop of California Orange County Business Council Oxnard Chamber of Commerce Personal Insurance Federation of California Pleasanton Chamber of Commerce Rancho Cordova Chamber of Commerce Redondo Beach Chamber of Commerce San Gabriel Valley Economic Partnership Silicon Valley Leadership Group South Bay Association of Chambers of Commerce Tulare Chamber of Commerce Western Independent Refiners Association Western States Petroleum Association Western Wood Preservers Institute

Status: Senate Committee on Appropriations (passed Environmental Quality, Judicial)



**2021 Meeting Schedule
w/ Guest speakers**

~~1/25~~ Open

~~2/20~~ Open

~~3/15~~ Open

4/19 Open – DA Mike Hestrin

5/17 Open – Juan Perez, Sonia Perez (Fr. Valley tower), Bill Blankenship (redistricting)

6/21 Open

7/19 Open - Matt Jennings, RivCo Treasurer/Tax Collector

8/16 Open

9/20 Open

10/18 Open

11/15 Closed

12/16 Dark