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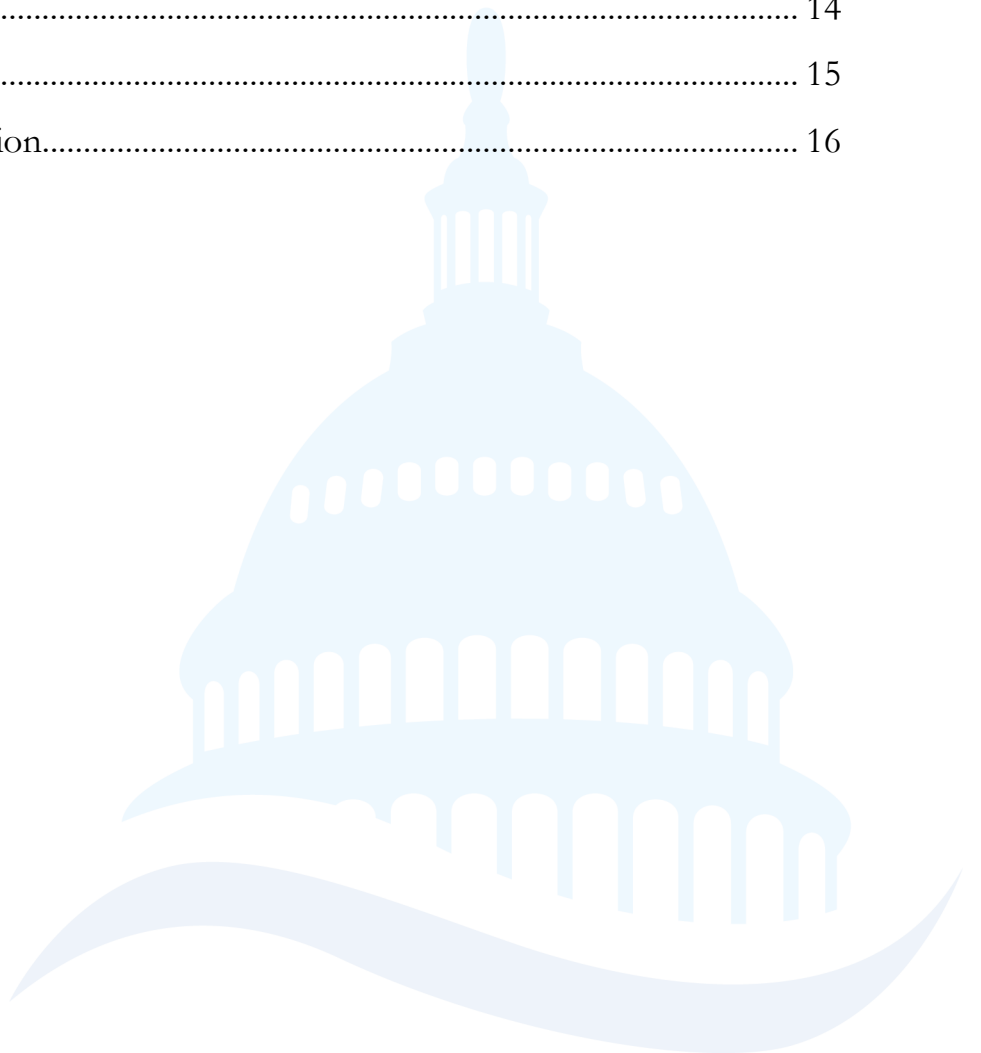


CPSA
California Pool & Spa Association

**PHTA/CPSA
California 2020
Year-End Legislative
Report**

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INTRODUCTION

Never Waste a Crisis

This year's legislative session began like any other. Legislators started introducing bills as early as December 2019, given that 2020 was the end of the two-year legislative session, and had introduced approximately 2,600 bills by the end of February. Committee hearings were just beginning to get underway in mid-March when the state shut down, and the State Legislature voted to take a temporary recess in response to the COVID outbreak that had sickened and killed many Californians.

During this time, Governor Gavin Newsom legislated with numerous Executive Orders on various issues ranging from worker protection, eviction and mortgage relief, homelessness, health care, childcare, and education, just to name a few. In addition to the Governor, many localities also passed ordinances of their own on similar issues. Frustrated with the Governor taking over their role of legislating and with the lack of oversight of his unilateral spending power, the Legislature insisted upon reconvening their session no matter what the risks and circumstances.

Upon their return in early May, legislative leaders called upon their members to reduce their bill loads concentrating only on COVID-19, wildfires, and housing issues. While this request was honored for the most part in the Senate, the Assembly, which already produces more bills due to the additional 40 members, was not as compliant. By the end of May, there were approximately 400 Assembly bills set for hearing in Assembly policy committees and approximately 170 Senate bills set for hearing in Senate policy committees. At the House of Origin deadline and upon the return of the Legislature from their summer recess in late July, the Assembly had sent the Senate over 500 bills while the Senate sent only 200 to the Assembly. Due to the condensed timeframe to hear all legislation, some chairs of legislative committees took it upon themselves to try to restrict the number of bills to be heard, but that ultimately led to arguments and tensions between the houses which reared themselves at the end of the session.

As a result of these factors, it can be argued the California Legislature did indeed have a single focus in 2020; however, it was not COVID-19, or wildfires, or housing, or homelessness as was initially stated by legislative leaders as their priorities once they returned from their forced COVID recess. No, instead it was a resolve to "Never Waste a Crisis," which ultimately served as a cover to accomplish so much more.

In the end, the Legislature passed a handful of bills specifically related to COVID, especially related to employment and labor laws, and numerous other non-COVID measures passed the Legislature while other issues ended up being stranded as the clock simply ran out due to a constitutional deadline to adjourn for the year.



COVID-19 Related Legislation

The State Legislature sent some 428 bills to the Governor for his consideration. Approximately 20 of these bills did in fact address issues related to COVID. Those bills will be described in more detail in the subject matter sections of this report; however, we will touch on a few of the more controversial COVID bills by way of this overview as well. As noted above, many of the COVID-related bills were aimed at employment and labor laws. And incidentally, a number of these bills will become permanent law in California, as they were not limited to the current state of emergency or the pandemic.

The bill with probably the broadest effect is **SB 1159 (Hill & Daly)**, which codified the Governor's Executive Order relative to workers' compensation creating a disputable presumption that COVID-19 was a compensable injury for purposes of workers' compensation for any worker not working at home between March 19 and July 6, 2020. In addition, the bill created an ongoing disputable presumption for first responders and front-line medical personnel and, for employers of five or more, where an outbreak occurs which is defined as four workers within a 14-day period or 5% of the employer's workforce depending on the size of the employer. This bill does contain a sunset on January 1, 2023. SB 1159 was an urgency bill and went into effect upon signing on September 17, 2020.

A related bill, **AB 685 (Reyes)**, requires employers to provide written notices and instructions to employees who may have been exposed to COVID-19 at their worksite and enhances the Division of Occupational Health and Safety's (Cal/OSHA's) ability to enforce health and safety standards to prevent workplace exposure to and the spread of COVID-19.

AB 3216 (Kalra) provides a right of recall and retention rights for workers who have been laid off due to a state of emergency and who work in a hotel, private club, event center, airport, or provide building services to office, retail, or other commercial buildings. Under this legislation, employers who have laid off workers due to COVID-19 must offer to rehire them based on seniority. Under the bill, employers must rehire former employees who can reasonably be trained to perform jobs they had not previously been employed to do. In addition, if the business has been sold, the new owner is still obliged to rehire former employees.

One of the most controversial and hard-fought bills of the year was **SB 1383 by Senator Hannah-Beth Jackson (D-Santa Barbara)**. This measure significantly expands the California Family Rights Act onto employers with five or more employees and requires them to provide up to 12 weeks of protected leave to qualified employees. The proposal was the Governor's language, which was initially a trailer bill before it was inserted into SB 1383.

AB 1867 (Committee of Budget) was a last-minute gut and amend into a trailer bill. The measure establishes COVID-19 supplemental paid sick leave for covered workers, including certain persons employed by private businesses of 500 or more employees, or persons employed as certain types of health care providers or emergency responders by public or private entities. The bill will require the Labor Commissioner to make publicly available a model notice relating to COVID-19 supplemental



paid sick leave for covered workers for purposes of the posting requirements under existing law. The bill would permit notice by electronic means in lieu of posting, for purposes of COVID-19 supplemental paid sick leave only, if a hiring entity's covered workers do not frequent a workplace. The bill's requirements to provide COVID-19 food sector supplemental paid sick leave and COVID-19 supplemental paid sick leave for covered workers would expire on December 31, 2020, or upon the expiration of any federal extension of the Emergency Paid Sick Leave Act established by the federal Families First Coronavirus Response Act, whichever is later. This bill was an urgency bill and went into effect on September 9, 2020.

AB 3088 (Bonta) was passed to protect tenants from eviction for nonpayment of rent and help keep homeowners out of foreclosure as a result of economic hardship caused by the pandemic. Under the legislation, no tenant can be evicted before February 1, 2021, as a result of rent owed due to a COVID-19 related hardship accrued between March 4–August 31, 2020, if the tenant provides a declaration of hardship according to the legislation's timelines. For a COVID-19 related hardship that accrues between September 1, 2020–January 31, 2021, tenants must pay at least 25 percent of the rent due to avoid eviction. Tenants are still responsible for paying unpaid amounts to landlords, but those unpaid amounts cannot be the basis for an eviction. Landlords may begin to recover this debt on March 1, 2021, and small claims court jurisdiction will be temporarily expanded to allow landlords to recover these amounts. Landlords who do not follow the court evictions process will face increased penalties under the act. The legislation also extends anti-foreclosure protections in the Homeowner Bill of Rights to small landlords, provides new accountability and transparency provisions to protect small landlord borrowers who request CARES-compliant forbearance, and provides the borrower who is harmed by a material violation with a cause of action.

Lastly, the Legislature also passed **AB 276 (Friedman)**, which would raise the amount Californians can borrow penalty-free from their employer-sponsored retirement accounts to \$100,000 from \$50,000 if they have been financially impacted by the pandemic.

Non-COVID Related Legislation

The Legislature was determined not to waste an opportunity to pass other controversial bills during a legislative session that took advantage of the unprecedented limitations on the ability of the Third House to lobby for or against any bill. Virtually no one was allowed into the Capitol building except under limited circumstances. Legislators were only allowed one staff member to be in the Capitol at a time. As such, lobbyists had to rely on email or text if they had a staff member's personal cell phone number. Meetings with Legislators were confined to Zoom meetings, conference calls, or text messages. All letters or floor alerts had to be delivered electronically, and there was virtually no assurance they would be seen by the correct staff member or the Legislator themselves.

Some of the most controversial bills that played out during the shortened legislative session were bills that had failed in prior attempts to pass. The energy taken to get these bills passed, and the debates that ensued directly took Legislators' attention away from other COVID-related issues, wildfire legislation, and homelessness issues which were supposed to be the focus of the 2020 Legislative session. A few of these bills were:



Online Marketplaces: **AB 3262 (Stone)** would have extended strict liability to the online marketplaces where their goods are offered for sale.

Garment Manufacturing: **SB 1399 (Durazo)** targeted non-unionized employers in the garment manufacturing industry by proposing to eliminate piece rate as a method of payment, even though it can benefit employees, and increasing litigation exposure for labor contractors for these workers.

Wage Disparities: **SB 973 (Jackson)** requires California employers to submit potentially incomplete or misleading pay data to state agencies that may allow advocates to characterize a false impression of wage disparity where none exists.

Prevailing Wages: **AB 2231 (Kalra)** creates a statutory minimum amount of public subsidy that would trigger prevailing wage requirements on an otherwise private project, overturning the established practice of considering the subsidy in the overall context of the project. Two Governors have vetoed this proposal in the past.

Warehouse Workers: **AB 3056 (Gonzalez)** would have limited the ability of warehouse employers to use performance standards, like boxes-per-hour, and adds a related litigation risk to employing warehouse workers.

Health System Mergers: **SB 977 (Monning)** would have presumptively characterized health system mergers or acquisitions as anticompetitive and empowers the Attorney General to reject this market activity.

Recycling: **SB 54 (Allen)** and **AB 1080 (Gonzalez)** were left for dead at the end of 2019. As resurrected, these measures would have required millions in new state government spending, expansive new rules, and fee authority by state regulators, and failed to address deficiencies in existing programs like the Bottle Bill, while the state struggles financially.

Favored Tobacco Ban: **SB 793 (Hill)** bans for sale in retail stores flavored tobacco products, except for hookah, premium cigars, and pipe tobacco.

State Prescription Drugs: **SB 852 (Pan)** would require the California Health and Human Services Agency to enter into partnerships to produce or distribute generic prescription drugs and at least one form of insulin, provided that a viable pathway for manufacturing a more affordable form of insulin exists at a price that results in savings.

Trade Secrets: **SB 749 (Durazo)** would have removed the protection of confidentiality of certain trade secrets by businesses that contract with a state or local agency.

Conclusion

Although the Legislative Session just ended, there are many unresolved issues some groups believe may need emergency action and are calling on the Governor and State Legislature to call a special



session to address. These potential special sessions would cover issues such as tax revenues, police reform, and wildfire.

Labor unions were one of the first to request the Governor call a special session for tax revenue. With tax revenue taking a hit during the pandemic, unions like the California Teachers Association (CTA) and Service Employees International Union (SEIU) have pleaded with the Governor to call a special session of the Legislature in order to raise taxes. Governor Gavin Newsom seems unmoved about a special session for taxes as tax revenue in June exceeded the May forecast by 2.6%, and the July revenue take was 5.6% better than expected. CTA and SEIU are both proponents of wealth taxes and higher income taxes, not to mention increased property taxes on businesses (split roll). They are trying to take care of the split roll tax with a ballot initiative, but there is maneuvering for a special session in case the voters do not approve it in November.

A second call for a special session came from police unions and law enforcement groups. The police associations wanted time to negotiate bills on police reform that emerged after the George Floyd killing in May 2020. While a couple of police reform measures did reach the Governor's desk, many failed to pass during the last few weeks of the regular legislative session.

There is also talk of a special session on wildfires. Wildfires and related issues were intended to be one of the few topics covered by the Legislature when they returned from their COVID break. However, many of the wildfire bills under consideration ultimately stalled or were amended into less impactful measures, and California is on track to have another record year of fires. With this issue top of mind for the Governor, many speculate this is one issue he would work with legislative Democrats on through the fall and potentially call a special session to pass some meaningful reforms before the end of the year.

Lastly, one additional factor that could affect any decision for a fall special session is a recent lawsuit filed by two Republican members of the Legislature challenging the Governor's authority to issue Executive Orders. To date, the Governor has issued 53 Executive Orders relative to 15 different California Codes altering some 400 California statutes in 2020. Buoyed by a recent federal court decision in Pennsylvania striking Governor Tom Wolfe's executive lockdown order as unconstitutional violating both the first and fourteenth amendment of the constitution, this lawsuit could severely complicate the ability of the Governor to continue issuing such orders under his emergency services authority and require the Legislature to codify some of his actions.

While there are currently several calls for a special session, it is not likely the Governor will agree to call a special session until after the November election. Many in the political community speculate that if Proposition 15, the split roll property tax increase, fails at the ballot box, and former Vice President Joe Biden is not elected President, forestalling any federal bailout funds for California, only then will the Governor bring Legislators back to Sacramento for a lame-duck special session to consider tax increase bills and whatever else that may be on the agenda at the time.

As we look to 2021, there is still a lot of uncertainty as to how COVID will continue to impact the Legislature. Although there were multiple recesses this year and a variety of obstacles towards the end of the session (such as remote voting), the State Legislature proved they could do their job



successfully. As such, we would expect the Legislature will reconvene as planned in January 2021. However, until there are a vaccine and herd immunity, we would assume the Capitol will remain closed to lobbyists and the public, and the Third House will continue “distance” lobbying. Another question is whether the Legislature will jump right in again introducing 2,000+ bills, or will they attempt to focus their session on unresolved issues from 2020. Much of that likely depends on what happens in the next few months, whether there is a special session (or more) and the outcome of the November General Election.





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LEGISLATIVE SUMMARIES

Contractor Issues

[AB 1161 \(Calderon\) Recreational water use: wave basins.](#)

Summary: This bill would establish, under the supervision of the State Department of Public Health, standards for a wave basin, defined as an artificially constructed body of water within an impervious water containment structure incorporating the use of a mechanical device for generating waves with suitable characteristics for surfing. The bill would require a wave basin to be under the supervision of a wave basin operator, with specified responsibilities, and be subject to inspection by the enforcing agent.

Last Action: Concurred in Senate amendments by the Assembly, 75-0

Result: Vetoed by the Governor

[AB 1923 \(Salas\) Residential structures: natural gas shutoff devices.](#)

Summary: This bill would require the Department of Housing and Community Development, in consultation with the Office of the State Architect and the State Fire Marshal, to consider whether to propose for adoption by the California Building Standards Commission, in the code adoption cycle that begins after January 1, 2022, the requirement that seismic gas shutoff devices be installed in all or a portion of newly constructed residential dwelling units, motels, hotels, and lodging houses. The bill would prohibit the department from proposing a standard that would require the installation of specified gas safety devices on an existing building as a condition of a real estate conveyance.

Last Action: Held under submission in the Senate Appropriations Committee

Result: Failed to pass the Legislature by the end of session

[AB 2920 \(Oberholte\) Hazardous waste: transportation: consolidated manifesting procedure.](#)

Summary: This bill would authorize the consolidated manifesting procedure to be used additionally for retail hazardous waste, as defined, collected from a retailer engaged in business in the state. The bill would require, when using the consolidated manifesting procedure for retail hazardous waste, that incompatible materials transported in the same transport vehicle be managed pursuant to specified provisions that govern the transportation of hazardous waste.

Last Action: Concurred in Senate amendments by the Assembly, 75-0

Result: Approved by the Governor. Chaptered by Secretary of State - Chapter 222, Statutes of 2020

[AB 3087 \(Brough\) Contractors' State License Law.](#)

Summary: This bill would authorize the registrar to contract with a public or private organization to administer the examination and to provide materials and services for the examination.



Last Action: Passed the Senate, 39-0; no amendments taken in the Senate so no concurrence needed
Result: Approved by the Governor. Chaptered by Secretary of State - Chapter 295, Statutes of 2020

AB 3163 (Salas) Energy: biomethane: procurement.

Summary: This bill would instead define “biomethane” for that purpose as methane produced from an organic waste feedstock, rather than biogas, that meets those specified standards and is either produced from the anaerobic decomposition of organic material or produced from the noncombustion thermal conversion of specified materials.

Last Action: Passed the Senate, 31-7; no amendments taken in the Senate so no concurrence needed
Result: Approved by the Governor. Chaptered by Secretary of State - Chapter 358, Statutes of 2020

SB 865 (Hill) Excavations: subsurface installations.

Summary: This bill would provide that the California Underground Facilities Safe Excavation Board is also known as the “Dig Safe Board” and would make conforming changes to references in the act. The bill would require the board, on and after January 1, 2022, to be within the Office of Energy Infrastructure Safety within the Natural Resources Agency, as established pursuant to the California Energy Infrastructure Safety Act. The bill would require a policy committee review at least once every three years.

Last Action: Concurred in Assembly amendments by the Senate, 39-0
Result: Approved by the Governor. Chaptered by Secretary of State. Chapter 307, Statutes of 2020

SB 878 (Jones) Department of Consumer Affairs: license: application: processing timeframes.

Summary: This bill, beginning July 1, 2021, would require each board within the department that issues licenses, on at least a quarterly basis, to prominently display on its internet website either the current average timeframes for processing initial and renewal license applications or the combined current average timeframe for processing both initial and renewal license applications.

Last Action: Passed the Assembly, 75-0; no amendments taken in the Assembly so no concurrence needed
Result: Approved by the Governor. Chaptered by Secretary of State. Chapter 191, Statutes of 2020

SB 1189 (McGuire) Contracting business: home improvement: residential property.

Summary: This bill would create a new classification of contracting business, to be called residential remodeling contracting. The bill would provide that a residential remodeling contractor’s principal contracting business is in projects that make improvements to, on, or in an existing residential wood frame structure that require the use of at least 3 unrelated building trades or crafts for a single contract. The bill would provide a nonexclusive list of trades or crafts in this regard.

Last Action: Concurred in Assembly amendments by the Senate, 39-0
Result: Approved by the Governor. Chaptered by Secretary of State. Chapter 364, Statutes of 2020



SB 1196 (Umberg) Price gouging.

Summary: This bill would expand specified crime to also include selling or offering to sell those goods or services for a price 10% greater than the price charged immediately prior to a date set by the proclamation or declaration of emergency.

Last Action: Concurred in Assembly amendments by the Senate, 39-0

Result: Approved by the Governor. Chaptered by Secretary of State. Chapter 339, Statutes of 2020

SB 1380 (Allen) Santa Monica Mountains Conservancy: acquisition of real property.

Summary: This bill would exempt the Santa Monica Mountains Conservancy's acquisition of real property or interest therein initiated after January 1, 2021, to address or resolve an encroachment, as defined, on real property owned by the conservancy from specified laws, including the Property Acquisition Law, unless the value of the real property or interest therein exceeds \$500,000, as adjusted annually pursuant to the Consumer Price Index.

Last Action: Concurred in Assembly amendments by the Senate, 39-0

Result: Approved by the Governor. Chaptered by Secretary of State. Chapter 310, Statutes of 2020

Labor

AB 685 (Reyes) Occupational safety: COVID-19 exposure: notification.

Summary: This bill will require a public or private employer to provide specified notifications to its employees, the Division of Occupational Safety and Health, and the State Department of Public Health, relating to the exposure of its employees to COVID-19 that the employer knew of or should have reasonably have known of, as specified. The bill will define "exposure to COVID-19." The bill will make it a misdemeanor if an employer violates the notification requirements of these provisions.

This bill was one of the most controversial and heavily lobbied bills this year. AB 685 was sponsored by the labor organizations and strongly opposed by the business community. While the business community recognizes the importance of notifying employees of COVID 19 cases, many provisions in the bill remain problematic. As such, the author's office and Governor's office have committed to working with the business community through the fall in an attempt to fix some of the outstanding issues and provide further clarification. This bill does not take effect until January 1, 2021, and it is expected there will be clean up language introduced the first of January as a result of the discussions with the interested parties in the fall.

Last Action: Concurred in Senate amendments by the Assembly, 52-17

Result: Approved by the Governor. Chaptered by Secretary of State - Chapter 84, Statutes of 2020

AB 805 (Oberholte) Unemployment insurance: contribution rates.

Summary: This bill would, for calendar year 2021, provide that an employer's contribution rate to the Unemployment Fund shall not exceed the rate that was in effect for that employer in calendar year 2020.



Last Action: Hearing canceled at request of the author

Result: Failed to pass the Legislature by the end of session

AB 1066 (Gonzalez) Unemployment compensation: benefits payable: collection.

Summary: This bill would require, on and after January 1, 2021, if an employer, within 10 days after receiving an initial notice from the Director of Employment Development of the need to furnish over required records or reports necessary for a full determination of a claim for unemployment compensation benefits, fails to furnish those required records or reports to the director, it be conclusively presumed that the claimant is entitled to the maximum total benefits payable, unless the director determines, based on the evidence, that the claimant is entitled to a lesser amount.

Last Action: Concurred in Senate amendments by the Assembly, 54-17

Result: Vetoed by the Governor

AB 1441 (Levine) Unemployment compensation: employers: contribution rates.

Summary: This bill would, for calendar years 2021 and 2022, limit the contribution rate of an employer to the Unemployment Fund from exceeding the rate that was in effect for that employer in calendar year 2020.

Last Action: Gutted and amended on June 19, 2020; no voting history on current version

Result: Failed to pass the Legislature by the end of session

AB 1850 (Gonzalez) Worker classification: employees and independent contractors.

Summary: This was initially the omnibus bill for making changes to AB 5 (Chapter 396, Statutes of 2019). The bill would have exempted from the 3-part ABC Test for employment status and instead applies the test set forth in the California Supreme Court's *Borello* decision to certain occupations such as musicians, insurance inspectors, and competition judges, subject to specified conditions, adds appraisers, and certain master class teachers to the professional services exemption, revises the freelancer exemption, and recasts the exemption for referral agencies. AB 1850 added nearly fifty occupations or business relationships to the list of occupations and professions that are not subject to the ABC Test in Labor Code § 2750.3.

Throughout much of the early part of the year, many one-off exemption bills were introduced by Republican members in both the Senate and Assembly. In the Assembly, the Speaker provided committee chairs with more control over which bills their committees would consider. That change had a huge impact on the bills that went through the Assembly Labor and Employment Committee as Chair Assemblymember Ash Kalra opted not to consider any of the Republican-authored bills that provided for exemptions or wholesale restructuring of AB 5 (Gonzalez) from the prior year.

In the Senate, most of the AB 5 follow-up bills did not get further than the Senate Labor, Public Employment and Retirement Committee. In addition to the Republican-authored Senate Bills, some were authored by more business-friendly Democrats in the Senate. Ultimately, AB 1850 was merged into AB 2257 with an urgency clause to take effect immediately upon approval by the Governor.



Last Action: Author held to move forward with only AB 2257

Result: Failed to pass the Legislature by the end of session

AB 1947 (Kalra) Employment violation complaints: requirements: time.

Summary: This bill extends the statute of limitations for filing complaints with the Division of Labor Standards Enforcement (DLSE) alleging workplace retaliation from six months to one year and authorizes the payment of attorney's fees to employees who successfully sue for retaliation based on whistleblowing.

This bill is a narrower version of AB 403 (Kalra, 2019), which proposed to extend the deadline out to two years from the time of the retaliatory act.

Opponents of AB 1947, led by the California Chamber of Commerce, noted the bill's provisions to add attorney's fees perpetuate an expansion of a hostile litigation environment for employers in California, arguing both parties should have the financial risk to minimize frivolous lawsuits that burden court docket.

Last Action: Enrolled and presented to the Governor on August 27

Result: Approved by the Governor. Chaptered by Secretary of State - Chapter 344, Statutes of 2020

AB 2017 (Mullin) Employee: sick leave: kin care.

Summary: This bill specifies for purposes of an employee's use of their accrued sick leave, it is at the employee's discretion to designate this time for the purpose of diagnosis, care, or treatment of their or their family member's health condition or for obtaining relief if the employee is a victim of domestic violence, sexual assault, or stalking. This bill does not provide a new employment right.

Last Action: Concurred in Senate amendments by the Assembly, 54-17

Result: Approved by the Governor. Chaptered by Secretary of State - Chapter 211, Statutes of 2020

AB 2257 (Gonzalez) Worker classification: employees and independent contractors: occupations: professional services.

Summary: This bill clarifies, when two bona fide businesses are contracting with one another under the business-to-business exemption, the determination of whether an individual working for a business service provider is an employee or independent contractor of the business service provider is governed by the existing 'ABC' Test. This bill exempts from the 'ABC' Test recording artists, songwriters, managers of recording artists, record producers, musical engineers and mixers, musicians, vocalists, photographers working on recording photo shoots, album covers, and other press and publicity purposes, independent radio promoters, and any other individual engaged to render any creative, production, marketing, or independent music publicist services. This bill removes the submission cap of 35 times per year for still photographers, photojournalists, freelance writers, editors, illustrators, and newspaper cartoonists.

The bill also contains the provisions of AB 1850, which added numerous additional occupational and professional exemptions to AB 5.



Last Action: Concurred in Senate amendments by the Assembly, 74-0

Result: Approved by the Governor. Chaptered by Secretary of State - Chapter 38, Statutes of 2020

AB 2399 (Committee on Insurance) Paid family leave: qualifying exigency.

Summary: This bill makes clarifications to definitions in existing law necessary for the proper implementation of the expansion in the use of the Paid Family Leave for a qualifying exigency related to the covered active duty or call to covered active duty of an individual's specified family members in the Armed Forces of the United States, which is set to begin January 1, 2021.

Last Action: Passed the Senate, 39-0; no amendments taken in the Senate so no concurrence needed

Result: Approved by the Governor. Chaptered by Secretary of State - Chapter 348, Statutes of 2020

AB 2999 (Low) Employees: bereavement leave.

Summary: This bill would have enacted the Bereavement Leave Act of 2020 to require an employer to grant an employee up to 10 business days of unpaid bereavement leave upon the death of a spouse, child, parent, sibling, grandparent, grandchild, or domestic partner, in accordance with certain procedures, and subject to certain exclusions. The bill would have prohibited an employer from interfering with or restraining the exercise or attempt to exercise the employee's right to take this leave. This bill would have authorized an employee who has been discharged, disciplined, or discriminated against for exercising their right to bereavement leave to file a complaint with the Division of Labor Standards Enforcement or bring a civil action against their employer for reinstatement, specified damages, and attorney's fees.

Last Action: Held in Senate Judiciary Committee without hearing

Result: Failed to pass the Legislature by the end of session

AB 3053 (Daly) Labor Commissioner: unpaid wage claim process.

Summary: This bill would have, beginning July 1, 2021, required the Labor Commissioner to create an online portal on its internet website that would allow wage claimants to file unpaid wage claims, track those claims, and submit requested documents regarding those claims.

Last Action: Passed the Senate, 39-0; no amendments taken in the Senate so no concurrence needed

Result: Vetoed by Governor

AB 3075 (Gonzalez) Wages: enforcement.

Summary: This bill will require the articles of incorporation to also contain a statement signed by the filers, under penalty of perjury, that the filer is not an owner, director, officer, managing agent, or any other person acting on behalf of an employer that has an outstanding final judgment issued by the Division of Labor Standards Enforcement or a court of law for violation of any wage order or provision of the Labor Code. The bill also states nothing in the statutory provisions regarding enforcement of various wage and hour laws precludes a local jurisdiction from enforcing local labor standards that are at least as stringent as the state standards. The effect of this change will allow local jurisdictions to enforce state standards and not just more stringent ones.



Last Action: Concurred in Senate amendments by the Assembly, 59-11

Result: Approved by the Governor. Chaptered by Secretary of State - Chapter 357, Statutes of 2020

AB 3216 (Kalra) Employee leave: authorization.

Summary: This bill would have required an employer in the hotels, airport hospitality, event centers, and building services industries to offer its laid-off employees the right of recall and retention.

According to the author and labor union sponsors, COVID-19 has inflicted devastating consequences on the health and financial stability of workers. Industries such as hotels, airport hospitality, event centers, and building services have laid off one-third or more of their employees. Workers in these industries are overwhelmingly women, people of color, and immigrants, who are already among the hardest-hit communities in this pandemic.

AB 3216 is one of several bills opposed by a large business coalition led by the California Chamber of Commerce.

Last Action: Concurred in Senate amendments by the Assembly, 46-16

Result: Vetoed by the Governor

SB 905 (Archuleta) Criminal history information requests.

Summary: This bill establishes procedures for individuals, organizations, and agencies to request a fingerprint-based criminal history information check from the Department of Justice. In addition, this bill establishes a process for communication between the department and the Federal Bureau of Investigation and requires a department response to the requesting individual, organization, or agency.

Last Action: Concurred in Assembly amendments by the Senate, 31-3

Result: Approved by the Governor. Chaptered by Secretary of State. Chapter 191, Statutes of 2020

SB 973 (Jackson) Employers: annual report: pay data.

Summary: This bill will authorize the Department of Fair Employment and Housing (DFEH) to receive, investigate, conciliate, mediate, and prosecute complaints alleging practices unlawful under those discriminatory wage rate provisions. This bill will require, on or before March 31, 2021, and on or before March 31 each year thereafter, a private employer that has 100 or more employees and is required to file an annual Employer Information Report under federal law, to submit a pay data report to the DFEH that contains specified wage information. The bill will require the information to be made available in a prescribed format and require the DFEH to make the reports available to the division upon request. The bill will authorize the DFEH, if it does not receive the required report from an employer, to seek an order requiring the employer to comply.

Last Action: Concurred in Assembly amendments by the Senate, 39-8

Result: Approved by the Governor. Chaptered by Secretary of State. Chapter 363, Statutes of 2020



SB 1102 (Monning) Employers: Labor Commissioner: required disclosures.

Summary: This bill would have required an employer to include in their written notice to all employees, specified information required in the event of a federal or state declared disaster or applicable to the county or counties in which the employee will be employed; and would have prohibited an employer from retaliating against an employee for raising questions about the declarations' requirements or recommendations. This bill would have additionally required an employer to provide an H-2A employee on the day the employee begins work in the state, or begins work for another employer after being transferred, a written notice in Spanish and, if requested by the employee, in English, containing specified information relative to an H-2A employee's rights pursuant to federal and state law.

Last Action: Concurred in Assembly amendments by the Senate, 28-10

Result: Vetoed by the Governor

SB 1383 (Jackson) Unlawful employment practice: family leave.

Summary: This bill recasts the California Family Rights Act (CFRA) revise to make it an unlawful employment practice for any employer to refuse to grant a request by an employee to take up to 12 workweeks of unpaid protected leave during any 12-month period to bond with a new child of the employee or to care for themselves or a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner. The bill requires an employer who employees' both parents of a child to grant leave to each employee, and also make it an unlawful employment practice for any employer to refuse to grant a request by an employee to take up to 12 workweeks of unpaid protected leave during any 12-month period due to a qualifying exigency related to the covered active duty or call to covered active duty of an employee's spouse, domestic partner, child, or parent in the Armed Forces of the United States. The bill defines an employee for these purposes as an individual who has at least 1,250 hours of service with the employer during the previous 12-month period unless otherwise provided. These provisions apply to employers with five or more employees.

Last Action: Passed the Assembly, 46-16; no amendments taken in the Assembly so no concurrence needed

Result: Approved by the Governor. Chaptered by Secretary of State. Chapter 86, Statutes of 2020

Privacy

AB 660 (Levine) Personal information: contact tracing.

Summary: This bill would have prohibited data collected, received, or prepared for purposes of contact tracing from being used, maintained, or disclosed for any purpose other than facilitating contact tracing efforts. The bill would have prohibited an officer, deputy, employee, or agent of a law enforcement agency, as defined, from engaging in contact tracing.

Last Action: Held under submission in the Senate Appropriations Committee

Result: Failed to pass the Legislature by the end of session



SB 980 (Umberg) Privacy: genetic testing companies: COVID-19 testing.

Summary: This bill would have established the Genetic Information Privacy Act, to require a direct-to-consumer genetic testing company or any other company that collects, uses, maintains, or discloses genetic data collected or derived from a direct-to-consumer genetic testing product or service, or provided directly by a consumer, to provide a consumer with certain information regarding the company's policies and procedures for the collection, use, maintenance, and disclosure of genetic data, and to obtain a consumer's express consent for the collection, use, or disclosure of the consumer's genetic data.

With an increase in consumer products that test genetic makeup to identify possible ancestry and ethnicities, such as 23andMe, there has emerged concern over how companies may or may not be using the genetic information people provide.

Last Action: Concurred in Assembly amendments by the Senate, 39-0

Result: Vetoed by the Governor

Taxes

AB 276 (Friedman) Personal income taxes: qualified employer plan: loans: CARES Act.

Summary: This bill would, for purposes of the Personal Income Tax Law, provide conformity to those qualified employer plan loan provisions of the federal CARES Act. Current federal law, the Coronavirus Aid, Relief, and Economic Security Act (federal CARES Act), among other things, in the case of any loan from a qualified employer plan to a qualified individual, as defined, made during the 180-day period beginning on March 27, 2020, increases the maximum amount of a permitted loan to up to (1) the greater of \$10,000 or 100% of a participant's vested account balance or (2) \$100,000, whichever is less, and delays the repayment period for a qualified individual with an outstanding loan for up to one year.

Last Action: Concurred in Senate amendments by the Assembly, 75-0

Result: Approved by the Governor. Chaptered by Secretary of State - Chapter 62, Statutes of 2020

AB 1577 (Burke) Income taxes: federal CARES Act: gross income: loan forgiveness.

Summary: This bill, for taxable years beginning on or after January 1, 2020, excludes from gross income, for state income tax purposes, any covered loan amount forgiven pursuant to the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act.

The author's purpose for this bill was to conform state law with the federal CARES Act and noted, without conformity, taxpayers would have to include forgiven Paycheck Protection Program (PPP) debt as income for state purposes while excluding it for federal purposes, and disallowing expenses for federal purposes while allowing expenses for state purposes. The mismatch in the treatment of income and expensing can be extremely confusing and may result in errors.

Last Action: Concurred in Senate amendments by the Assembly, 74-0

Result: Approved by the Governor. Chaptered by Secretary of State - Chapter 39, Statutes of 2020



Workers' Compensation

[AB 196 \(Gonzalez\) Workers' compensation: COVID-19: essential occupations and industries.](#)

Summary: This bill would have defined “injury,” for certain employees who are employed in an occupation or industry deemed essential in the Governor’s Executive Order of March 19, 2020 (Executive Order N-33-20), except as specified, or who are subsequently deemed essential, to include coronavirus disease 2019 (COVID-19) that develops or manifests itself during a period of employment of those persons in the essential occupation or industry. The bill would apply to injuries occurring on or after March 1, 2020; would create a conclusive presumption that the injury arose out of and in the course of the employment; and, would extend that presumption following termination of service for a period of 90 days, commencing with the last date actually worked.

Last Action: Passed the Senate Labor, Public Employment and Retirement Committee, 3-1

Result: Failed to pass the Legislature by the end of session

[AB 664 \(Cooper\) Workers' compensation: injury: communicable diseases.](#)

Summary: This bill would have defined “injury,” for certain state and local firefighting personnel, peace officers, certain hospital employees, and certain fire and rescue services coordinators who work for the Office of Emergency Services to include being exposed to or contracting, on or after January 1, 2020, a communicable disease, including coronavirus disease 2019 (COVID-19), that is the subject of a state or local declaration of a state of emergency which is issued on or after January 1, 2020. The bill would have created a conclusive presumption, as specified, that the injury arose out of and in the course of the employment. The bill would have applied to injuries that occurred prior to the declaration of the state of emergency. The bill would have also exempted these provisions from the apportionment requirements.

Last Action: Passed the Senate Appropriations Committee, 5-0

Result: Failed to pass the Legislature by the end of session

[SB 1159 \(Hill\) Workers' compensation: COVID-19: critical workers.](#)

Summary: This bill defines “injury” for an employee to include illness or death resulting from the 2019 novel coronavirus disease (COVID-19) under specified circumstances, until January 1, 2023. The bill will create a disputable presumption, as specified, that the injury arose out of and in the course of the employment and is compensable, for specified dates of injury. The bill will limit the applicability of the presumption under certain circumstances. The bill will require an employee to exhaust their paid sick leave benefits and meet specified certification requirements before receiving any temporary disability benefits or, for police officers, firefighters, and other specified employees, a leave of absence. The bill will also make a claim relating to a COVID-19 illness presumptively compensable, as described above, after 30 days or 45 days, rather than 90 days. Until January 1, 2023, the bill will allow for a presumption of injury for all employees whose fellow employees at their place of employment experience specified levels of positive testing, and whose employer has five or more employees.



This bill also requires the Commission on Health and Safety and Workers' Compensation to conduct a study of the impacts of COVID-19 and the specific presumptions created by this bill and report its findings to the Legislature and the Governor.

Last Action: Concurred in Assembly amendments by the Senate, 30-8

Result: Approved by the Governor. Chaptered by Secretary of State. Chapter 85, Statutes of 2020

