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CALIFORNIA
The Good, The Bad, & The Ugly

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NFIB/CA SACRAMENTO UPDATE

The Good, The Bad, & The Ugly

Updated May 11, 2017

California is in the first year of its two-year legislative session, and bills that “die” are still eligible to be considered until next year. NFIB will update this list as the legislative session progresses.

The Good Bills

AB 12 (Cooley): Agency Review of Regulations – Support: Requires all agencies to do a full review of their regulations to see if they are outdated, too costly, or overlap with other rules. Such a full-scale review has not happened in decades.

AB 75 (Steinorth): Earned Income Credits – Support: Expands the earned income credit allowed by the Personal Income Tax Law by providing conformity with federal income tax law regarding net earnings from self-employment.

AB 77 (Fong): Legislative Approval of Costly Regulations – Support: Requires legislative approval for any regulations with an impact of over \$50 million.

AB 281 (Salas): PAGA Reform – Support: Amends the Private Attorneys General Act to allow employer’s 65 days to fix problems before they can be sued. The current time allowed is 33 days, which often is not enough time.

AB 442 (Frazier): Cal-OSHA Violations: Right to Cure – Support: This bill will allow small businesses 30 days to fix minor, non-serious violations of the California Occupational Safety and Health Act before being penalized. This is much-needed regulatory reform.

AB 445 (Cunningham): CTE Funding – Support: This bill provides more money for California’s Career Technical Education programs, which are critical in providing skilled labor.

AB 496 (Fong): Transportation Funding – Support: Provides for transportation funding by requiring reforms and ensuring transportation dollars are actually spent on transportation. This approach should have been considered before increasing taxes.

AB 657 (Cunningham): Agency Small Business Liaisons – Support: Requires state agencies that significantly impact small businesses to display the name and contact information of the small business liaison on the agency’s Web site, and to fill any vacancy in this position within 3 months.

AB 767 (Quirk-Silva): Master Business License – Support: Creates a Master Business License for small businesses that need two or more licenses to operate.

AB 816 (Kiley): Public Cal-EPA Meetings – Support: Requires public California Environmental Protection Agency meetings, including subordinate departments like CARB and OEHHA, to be

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broadcast online and interactive to the public. It also requires them to be recorded for future access.

AB 912 (Oberholte): Small Business Regulatory Compliance – Support: Requires agencies to assist small businesses in complying with regulations. It requires agencies to develop frameworks for reducing fines and penalties based on mitigating factors.

AB 1005 (Calderon): DCA Penalties: Right to Cure – Support: The Department of Consumer Affairs oversees the licensure of businesses and professions. This bill would allow 30 days for abatement of the violation before the administrative fine becomes effective.

AB 1117 (Fong): CEQA Reform – Support: Implements much needed California Environmental Quality Act reforms.

AB 1256 (Brough): Minimum Franchise Tax – Support: Reduces the minimum franchise tax from \$800 to \$100 for the first taxable year for specified small businesses.

AB 1326 (Cooper): Aggregate Theft – Support: Redefines felony theft as an aggregate of \$950 in a 12-month period rather than per individual crime. This will protect businesses that are being hit by serial thefts as the perpetrators know it is presently only a misdemeanor.

AB 1429 (Fong): PAGA Reform – Support: Limits Private Attorney General Act lawsuits to wage statements, overtime, and meal and rest break violations.

AB 1430 (Fong): PAGA Reform – Support: Allows Private Attorney General Act lawsuits to proceed only after a Labor and Workforce Development Agency investigation.

AB 1432 (Melendez): Minimum Franchise Tax Exemption – Support: Exempts businesses in their first five years from having to pay the minimum franchise tax.

AB 1635 (Quirk-Silva): Small Business Participation in State Contracts – Support: Codifies the executive order requiring a 25% participation rate in awarding state contracts to small businesses. It also requires the Governor's Small Business Advocate to assist small businesses.

SB 13 (Gaines): R&D, Manufacturing, Agricultural Sales Tax Exemption – Support: Expands the research and development, manufacturing, and agricultural sales and use tax exemption.

SB 248 (Morrell): Minimum Franchise Tax Reduction – Support: Reduces the minimum franchise tax by 50% in the first six taxable years.

SB 271 (Mendoza): Alcoholic Beverage Sellers – Support: Authorizes licensed alcohol sellers attend training to avoid a violation charge and lose their license.

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SB 375 (Bradford): BOE Penalties – Support: Requires the Board of Equalization to provide penalty relief for taxpayers with no recent history of violations.

SB 524 (Vidak): DLSE Regulatory Compliance – Support: Creates a “good faith” defense for employers that complied with written guidance on Division of Labor Standards Enforcement regulations.

The Bad Bills

AB 43 (Thurmond): Department of Corrections Contracting Tax – Oppose: Imposes a 10% tax on businesses that contract with CDCR for the “privilege” of having a state contract in order to fund education programs designed to discourage future criminals. It sets a bad precedent by taxing businesses just for having a state contract.

AB 168 (Eggman): Employee Wages – Oppose: Prohibits employers from asking applicants about their salary history, and requires them to provide a pay scale upon request. It effectively eliminates an employer’s ability to negotiate wages, and creates a new reason to sue.

AB 274 (C. Garcia): Sales Tax on Snack Foods – Oppose: Reinstates a sales tax on candy by reversing a 1992 voter initiative that repealed a previous tax. This is the implementation bill for ACA 2 by the same author, and defines “candy.”

AB 479 (C. Garcia/Gonzalez): Alcohol Tax – Oppose: Increases the tax on hard alcohol to fund a sales tax exemption for feminine hygiene products and diapers. Taxing one industry to subsidize another is not good policy.

AB 570 (Gonzalez-Fletcher): Workers’ Compensation Apportionment – Oppose: This bill sets a huge precedent by barring specific factors from being considered as pre-existing conditions when a workers’ comp settlement is being negotiated. Specifically, pregnancy, childbirth, or other medical conditions related to pregnancy or childbirth cannot be considered as contributing to a workplace injury. This new precedent will result in more expensive claims against employers.

AB 889 (M. Stone): Confidentiality Agreements – Oppose: Limits the ability of businesses to include confidentiality agreements in certain legal settlements. This could allow proprietary information to become public.

AB 1003 (Bloom): Sweetened Beverage Tax – Oppose: Adds 2 cents per ounce tax to soda and other sweetened beverages.

ACA 2 (C. Garcia): Sales Tax on Snack Foods – Oppose: Reinstates a sales tax on snack foods by reversing a 1992 voter initiative that repealed a previous tax.

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SB 66 (Wieckowski): Income Taxes: Punitive Damages – Oppose: Removes compliance with federal law by disallowing business deductions for punitive damages paid.

SB 300 (Monning): Sugar-Sweetened Beverage Warnings – Oppose: Requires all sugar-sweetened beverages sold in California to have a health warning label, and creates new civil penalties for failure to do so. This is yet another example of nanny government.

SB 772 (Leyva): CalOSHA Exemption from Regulatory Analysis – Oppose: Exempts the California Division of Occupational Safety and Health from state law requiring an economic impact analysis for the costs to businesses of new regulations.

The Ugly Bills

AB 5 (Gonzalez-Fletcher): Opportunity to Work Act – Oppose: Requires employers with 10 or more total employees to offer more hours to their part-time employees before they can hire new workers, including temporary or seasonal staff. It creates a new right to sue your employer if you don't get more hours.

AB 890 (Medina): Local Initiatives: CEQA Review – Oppose: Stifles the ability to place local ordinance initiatives on the ballot by requiring extensive environmental reviews beforehand.

AB 1008 (McCarty): Ban the Box – Oppose: Prohibits employers from asking applicants about convictions until they make a conditional offer of employment. It creates new obligations and liabilities for employers and allows for new lawsuits. It will hamstring a small business owner's ability to quickly fill a position.

AB 1356 (Eggman): Higher Education Tax Increase – Oppose: Further increases California's highest in the nation top income tax bracket by another to a whopping 14.3% to fund higher education. This will only drive the wealthy, who pay over half of income taxes, out of state.

AB 1565 (Thurmond): Exempt Employees: Base Salary – Oppose: California law requires exempt employee salaries to be twice what a full-time minimum wage employee makes. Due to the annual minimum wage increase, this is going up each year. This bill bypasses the new wage law by increasing the exempt base salary to \$47,476. While it will far exceed this under current law, by moving it up prematurely, it places a big financial burden on employers.

AB 1576 (Levine): Gender Price Discrimination – Oppose: Creates a new private right of action to sue businesses that sell similar products at different prices to men and women. It completely ignores how the free market works, and will result in businesses closing from lawsuits.

AB 1628 (Grayson): Independent Contractors – Oppose: An intent bill that will prohibit the use of independent contractors on public works projects. This is anti-free enterprise and violates the fiduciary responsibility of government officials to spend tax dollars most effectively.

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ACA 4 (Aguiar-Curry): Local Tax Vote Threshold – Oppose: Lowers the mandated two-thirds local vote threshold to 55% to raise taxes and bonds for infrastructure and affordable housing projects.

ACA 11 (Caballero): Affordable Housing and Homeless Tax – Oppose: Increases the state sales tax by a quarter percent to fund middle class affordable housing and homeless shelters.

SB 2 (Atkins): Transfer Document Fee – Oppose: Creates a new \$75 per document fee (or tax) for the transfer of real property in order to fund affordable housing programs. It caps at \$225.

SB 49 (De Leon/Stern): Environmental Laws – Oppose: Requires all state and local environmental laws to be at least as stringent as federal policy before January 1, 2017. Creates an individual right to sue to enforce the law. Eliminates flexibility in the law and will lead to yet more litigation in our litigious state with overburdened courts.

SB 63 (Jackson): Family Leave – Oppose: Requires employers with as few as 20 employees within a 75-mile radius to provide 12 weeks of parental bonding leave, in addition to the other leaves of absence California already imposes, including maternity leave. Creates new legal liabilities for employers.

SB 562 (Lara): The Healthy California Act – Oppose: Creates a single-payer healthcare system in California. This would cost \$250 billion annually, and would hurt the quality of healthcare for our citizens.

SB 567 (Lara): Employer Tax Increases – Oppose: Takes California out of conformity with federal tax law, prohibits the corporate income tax deduction for performance pay for the five highest paid executives, raises the charitable remainder for trusts, and increases the capital gains tax paid on inherited property.

SB 640 (Hertzberg): Sales Tax on Services – Oppose: An intent bill that will expand the state sales tax to services. Small businesses would have to collect a new tax, and also pay the tax when they hire out for services.

SB 726 (Wiener): Estate Tax – Oppose: Authorizes a ballot measure to reinstate the estate tax on Californians at a rate of 40%. How much is enough taxes in the highest-taxed state?

SCA 3 (Dodd): Local Tax Vote Threshold – Oppose: Lowers the mandated two-thirds local vote threshold to 55% to raise taxes for library construction.

SCA 6 (Wiener): Local Tax Vote Threshold – Oppose: Lowers the mandated two-thirds local vote threshold to 55% to raise taxes for transportation projects.

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Of Concern to NFIB:

SB 3 (Beall): Authorizes \$3 billion in new bonds to fund affordable housing projects. While the lack of affordable housing is a real crisis, we must take steps to lower the cost of building homes if we want people to be able to afford them. California has over \$73 billion in outstanding bond debt and cannot afford to incur more debt – it is unfair to future generations.

SB 4 (Mendoza): Authorizes \$600 million in new bond debt, \$400 million of which goes to the state Air Resources Board for environmental programs. This agency has proven itself to be unaccountable to anyone time and again. California has over \$73 billion in outstanding bond debt and cannot afford to incur more debt.

SB 5 (De Leon): Authorizes \$3 billion in new bonds to ostensibly fund parks. However, a large portion of the money will go to fund conservation efforts, and most of the rest will go to major urban areas and environmental programs. California has over \$73 billion in outstanding bond debt and cannot afford to incur more debt.

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