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CALIFORNIA
The Good, The Bad, & The Ugly

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The Good, The Bad, & The Ugly

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The Legislature wrapped up business and adjourned for the year in the early hours of September 16th after passing a rule waiver to work beyond the 15th deadline. Any bill that did not pass is now a two-year bill that can be taken up again in 2018, the second year of California's legislative session.

Small businesses did not fare well this year in the super-majority Legislature with passing good bills, but many of the harmful bills were stalled until next year. The Governor signed a record 88% of the bills that reached his desk. Here is a summary of significant legislation:

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Review of Regulations – Support: Requires all agencies to do a full review of their regulations to see if they are outdated, too costly, or overlap with other rules.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. **2-year bill.**

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. **2-year bill.**

AB 77 (Fong): Legislative Approval of Costly Regulations – Support: Requires legislative approval for any regulations with an impact of over \$50 million. **2-year bill.**

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. **2-year bill.**

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. **2-year bill.**

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. **2-year bill.**

AB 472 (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 a gut-and-amended version of AB 442. **2-year bill.**

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. **Signed by the Governor.**

NFIB/CA SACRAMENTO UPDATE

AB 767 (Quirk-Silva): Master Business License – Support: Creates a Master Business License for small businesses that need two or more licenses to operate. **2-year bill.**

AB 816 (Kiley): Public Cal-EPA Meetings – Support: Requires public California Environmental Protection Agency meetings, including subordinate departments like CARB and OEHHA, to be broadcast online and interactive to the public. It also requires them to be recorded for future access. **2-year bill.**

AB 912 (Obernolte): 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. **2-year bill.**

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. **2-year bill.**

AB 1432 (Melendez): Minimum Franchise Tax Exemption – Support: Exempts businesses in their first five years from having to pay the minimum franchise tax. **2-year bill.**

AB 1583 (Chau): Prop. 65 Reform – Support: Requires the Attorney General to serve a letter on a notifying party and the alleged violator when it determines that the relevant allegations have no merit in a Prop. 65 lawsuit. The bill makes some other minor reforms. It will help reduce frivolous litigation. **Signed by the Governor.**

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. **2-year bill.**

SB 248 (Morrell): Minimum Franchise Tax Reduction – Support: Reduces the minimum franchise tax by 50% in the first six taxable years. **2-year bill.**

SB 524 (Vidak): Good Faith Defense for Employment Violations – Support: Permits employers a "good faith defense" if they tried to comply with Department of Labor Standards Enforcement regulations, and had relied on a published opinion letter or policy from the agency. **2-year bill.**

NFIB/CA SACRAMENTO UPDATE

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. **2-year bill.**

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.” **2-year bill.**

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. **2-year bill.**

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, as well as higher workers’ compensation premiums. **Vetoed by the Governor.**

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. **2-year bill.**

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

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. **2-year bill.**

SB 66 (Wieckowski): Income Taxes: Punitive Damages – Oppose: Removes compliance with federal law by disallowing business deductions for punitive damages paid. **2-year bill.**

SB 258 (Lara): Cleaning/Consumer Product Labeling – Oppose: Requires new disclosure requirements on cleaning product labels. It duplicates Proposition 65, and will result in a new bevy of lawsuits against businesses. It is yet one more warning label to confuse Californians. **Signed by the Governor.**

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. **2-year bill.**

NFIB/CA SACRAMENTO UPDATE

SB 705 (Allen): Ban on Styrofoam – Oppose: Bans the use of polystyrene food containers by restaurants, forcing them to use more expensive and less effective alternatives. This bill asserts dangers not based on science. And unlike polystyrene, the alternatives are non-recyclable and clog waterways. **2-year bill.**

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. **2-year bill.**

NFIB/CA SACRAMENTO UPDATE

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. **2-year bill.**

AB 102 (Budget Committee): Taxpayer Transparency and Fairness Act of 2017 – Oppose: Unlike its name, this budget trailer bill was used to completely eliminate the Board of Equalization's long-held authority to collect taxes and hear tax appeals in a last-minute gut-and-amend process that allowed very little transparency or public input. The bill also created three new agencies, giving them less than two weeks to become operational, and adding to the state's vast bureaucracy. AB 102 was a simple power grab that was a complete and utter abuse of the legislative budgetary process; using this process ensured that it cannot be repealed by the voters. **Signed by the Governor.**

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, despite the fact that it is already illegal to base someone's pay on their salary history. **Signed by the Governor.**

AB 398 (E. Garcia): Cap-and-Trade – Oppose: One more bill that was gutted and jammed through the process at the last second in order to extend California's costly cap-and-trade tax on businesses, which was not set to expire until 2020. Taxpayers are continuously undermined by these types of process abuses. **Signed by the Governor.**

AB 450 (Chiu): Immigration Worksite Enforcement Actions – Oppose: Unfairly punishes employers for cooperating with federal immigration agents. This bill forces them into a no-win situation by imposing steep fines for allowing access to the worksite to federal agents without a warrant. It will only serve to paint a target on employers, while creating new legal liabilities and huge penalties. **Signed by the Governor.**

AB 890 (Medina): Local Initiatives: CEQA Review – Oppose: Stifles the ability to place local land use ordinance initiatives on the ballot by requiring extensive environmental reviews beforehand. It gives exclusive land use authority to local government, not voters, contrary to constitutionally bestowed powers. **Vetoed by the Governor.**

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 by creating a mandatory delay for applicants to respond to net getting a job offer. **Signed by the Governor.**

NFIB/CA SACRAMENTO UPDATE

AB 1209 (Gonzalez-Fletcher): Public Reporting on Pay Differentials – Oppose: Requires employers with 500+ employees to report on gender pay differentials in order to publicly shame them. However, the data does not include legitimate reasons for differing pay. *Vetoed by the Governor.*

AB 1250 (Jones-Sawyer): County Use of Private Contracts – Oppose: Effectively prohibits local government contracting out for services with private businesses by imposing new strict guidelines and new costs and compliance rules for businesses. This interferes with elected officials' ability to use the most cost-effective means for providing services. *2-year bill.*

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. *2-year bill.*

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 eventually exceed this under current law, by moving it up prematurely, it places a big financial burden on employers. *2-year bill.*

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. *2-year bill.*

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. *2-year bill.*

AB 1701 (Thurmond): Contractor Liability – Oppose: Makes general contractors financially liable if subcontractors do not pay their employees. An employee of a business that subcontracts would be able to sue the general contractor, who may have no knowledge of that employee, for any lost wages owed by the business they work for. It also allows the Labor Commissioner to file suit against the general contractor for something that is not their fault. *Signed by the Governor.*

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. *2-year bill.*

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. *2-year bill.*

NFIB/CA SACRAMENTO UPDATE

SB 1 (Beall): Transportation Tax Increases – Oppose: Increases transportation taxes to fund highway maintenance by adding over 20 ¢/gallon to the gasoline tax (much more than is claimed), 20 ¢/gallon to the diesel excise tax, a 4% diesel sales tax increase, and a \$25-\$175 VLF increase along with a \$100 VLF increase for zero emission cars. Indexes future increases to CPI, making them automatic. It also eliminates the requirement for net neutrality for fuel taxes, and increases the baseline tax rate to the higher 2010 level. It makes the California Transportation Commission independent from the Transportation Agency. This was yet another bill passed in three days with little public input, having been declared an “emergency” despite the fact that not a single dime from \$36 billion in previous tax increases was allocated to transportation. ***Signed by the Governor.***

SB 2 (Atkins): Transfer Document Fee – Oppose: Creates a new \$75 per document fee (or tax) for the transfer of real property to fund affordable housing programs. It caps at \$225, but will be yet one more added expense. The bill includes no reforms to make home building “affordably.” ***Signed by the Governor.***

SB 3 (Beall): Authorizes \$4 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. The bill includes no reforms to actually make home building “affordable.” ***Signed by the Governor.***

SB 35 (Weiner): Interferes with local government’s ability to make land use decisions. This bill sets guidelines for fast tracking affordable housing developments, and requires prevailing wage to be paid on these types of projects. This will only increase the cost of homes. ***Signed by the Governor.***

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. ***2-year bill.***

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. A new mother would be eligible for seven months of protected leave. It creates new legal liabilities for employers. The 20-employee requirement applies to employers who may have several small businesses with fewer employees within a 75-mile radius. ***Signed by the Governor.***

SB 100 (De Leon): Renewable Energy Mandate: Greatly expands California’s statutory goal of obtaining 50% of its energy from renewable resources by 2030 by increasing the goal to 100% by 2045. This will be incredibly expensive for Californians and is an unattainable goal according to the federal government. ***2-year bill.***

NFIB/CA SACRAMENTO UPDATE

SB 562 (Lara): The Healthy California Act – Oppose: Creates a very expensive single-payer healthcare system in California. This would cost \$500 billion annually, and would require enormous tax increases to fund. It would hurt the quality of healthcare for our citizens. **2-year bill.**

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 executives, raises the charitable remainder for trusts, and increases the capital gains tax paid on inherited property. **2-year bill.**

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. **2-year bill.**

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? **2-year bill.**

SCA 3 (Dodd): Local Tax Vote Threshold – Oppose: Lowers the mandated two-thirds local vote threshold to 55% to raise taxes for library construction. **2-year bill.**

SCA 6 (Wiener): Local Tax Vote Threshold – Oppose: Lowers the mandated two-thirds local vote threshold to 55% to raise taxes for transportation projects. **2-year bill.**

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