

# CLEAR ADVOCACY

CLEAR COMMENTARY  
August 27, 2020



## What Else Could Possibly Go Wrong?

Pandemic. Wildfires. Struggling power grid. Truncated legislative session and historically embedded end-of-session intra-house tensions.

These are the final days of the sprint to finish work by the mandated deadline of August 31 for the legislature to adjourn for the year. So, what else could possibly hamper completion of trying to address public health and economic issues this year?

Cue a Republican senator testing positive for the virus Wednesday on the heels of a Republican caucus lunch Tuesday, thus requiring all 11 GOP caucus members also be tested. In the absence of results, the Senate unexpectedly recessed yesterday and plans for how to proceed remain in flux—although today Senate President pro Tem Toni Atkins stated the intent to permit remote voting from home for those Republican senators confined to their premises.

We won't begin to speculate on how the session resolves. Some speculate a special session may need to be called by Governor Gavin Newsom to deal with rent and mortgage relief among other urgent issues, but until a conclusive determination is made, all speculation remains just that—speculation.

And with that, we bring you those final large issues remaining for the legislature.

**Senate Bill 1383 (Jackson)** – Expands medical and family leave protections from employers with over 50 employees, to employers with over five employees. Amendments have been pushed to remove the private right of action and increase the employee threshold from 5 employees to 20 or more. There have been rumors that the private right of action will be replaced for mediation for employers of 5-19 and be sunset in 2024. Amendments may be placed in a budget trailer bill, so SB 1383 doesn't have to go back to Senate for concurrence. This has become one of the most contested bills this year.

**Senate Bill 977 (Monning)** – Authorizes the Attorney General the authority to review and approve proposed acquisitions of health care facilities and practices by health care systems, hedge funds or private equity groups. This week it was amended to require advance notice to the AG of intent of acquisition of change of ownership. Sponsored by the Attorney General on the heels of an acquisition settlement by Sutter Health, it's supported by organized labor and the Pacific Business Group on Health, among a host of others. It's a top priority opposed by hospitals, the Medical Association and other providers, and the Chamber of Commerce.

**Senate Bill 275 (Pan)** – Requires the State itself and health care providers to stockpile a specified supply of PPE for distribution to health care and essential workers during a pandemic or public health emergency. This week, SB 275 was amended to reduce the number of day supply from as many as 60-day supply to 30 or 45, as well as eliminating a major penalty provision.

**Senate Bill 793 (Hill)** – Bans flavored tobacco and vaping products. Advocated by public health and consumer advocates, businesses, convenience store owners, while Big Tobacco and taxpayer organizations oppose. The bill was approved by the full Assembly this week and faces a concurrent vote in the Senate.

**Senate Bill 1159 (Hill), Assembly Bill 196 (Gonzalez), and Assembly Bill 664 (Cooper)** – Workers' Compensation. Each of these bills represent a varying approach to covering workers contracting COVID19 on the job. Labor most actively supports AB 196, while SB 1159 is a more moderated approach that codifies the Governor's expiring Executive Order. Many details to be worked out in the few remaining days of session. Discussions could collapse and employer coalition opposes effort. Workers' comp is always one of the toughest cage matches for a vote.

**Assembly Bill 1436 (Chiu)** – Would provide temporary eviction relief to residential tenants and allow mortgage borrowers to request forbearance resulting from COVID19-related financial distress. This fight pits public health, tenants, and consumer rights organizations

against business, bankers, employers, and others. AB 1436 is caught in an intra-house squabble and has been referred to the Senate Rules Committee. It's fate...and the issue in the whole...remain uncertain.

**Assembly Bill 3262 (Stone)** – Imposes product liability for online retail marketplaces. AB 3262 is intended to level the e-commerce playing field with traditional brick and mortar retailers and is sponsored by trial lawyers and labor. The very businesses seeming to benefit are in strident opposition based upon overreach and litigation vulnerability. And in an ever-so-2020 turn of events, Amazon, the ostensible target of the bill, has written a letter of support on it.

**Assembly Bill 685 (Reyes)** – Requires employers to provide multiple notices if an employee is contracts COVID19. Sponsored by labor and opposed by pretty much every employer stakeholder in the state. The deadline to amend in the Senate has passed and the bill can't be amended. It is riddled with unintended consequences and, if passed, the author has committed to urgency cleanup in 2021. Fate very uncertain, but the Governor's office wants the bill.

**SB 54/AB 1080** – Major plastics ban bills that were stalled in 2019 but have been resurrected. Establishes and provides CalRecycle with broad authority to develop all the major components of program without legislative oversight. Both bills were recently amended to narrow the focus to plastics-related single use packaging. Both bills are fiercely opposed on policy and, in this unusual year, on relationship to the virus or the economy. The coalition opposing these bills are hopeful enough opposition can be generated that bills are not brought forth for a vote.

**Budget Trailer Bills** – We are closely watching a series of budget trailer bills to review what possibly could be added in the closing days of session. Budget trailer bills could be used for major policy issues and they become effective upon signature of the Governor.

**Next week** we promise a round-up of how the session ended.

