

CLEAR ADVOCACY

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Somebody Said It Out Loud

A hot mic [Zoom moment](#) from Senator Melissa Melendez during the waning hours of the legislative session easily captures the feeling of the entire year:

- a legislative session reduced by months
- bill packages scuttled for the year
- legislators in both houses testing positive for the COVID-19 virus
- a budget held together by baling wire
- limited committee hearings
- testimony by off-site video and telephone
- the lobby corps and interested citizens all but banned from the Capitol.

But through this all, we learned to improvise and find a way to apply our craft. And, in the final analysis, for the most part, it worked.

While the end of session last year was bizarre (blood thrown from the Senate gallery at senators mid-debate), surprising exactly nobody, 2020 was equally so when one Republican senator tested positive for the virus last week, exposing 10 of his 11 Republican caucus

mates who were then forced from the capitol while they home-quarantined and debated and voted by Zoom.

Motivated by a pile of bills to push through, seemingly dragging deliberation, Senate leadership motioned to limit debate to two speakers per bill and limiting them to two minutes each.

As witnessed by Senator Melendez's expletive, the zoom-enforced voting and then debate limitation created more than a little hostility between the banished Republicans and the presiding officers of the Senate. This hostility culminated at midnight when all hell broke loose between the two parties when Democrats approved a bill after the constitutionally required deadline to adjourn at midnight. Republicans insist they will challenge the bill in court, putting into question not only the validity of the bill, but remote voting itself.

Hell breaking loose wasn't limited to the Senate. Over in the Assembly, Speaker Anthony Rendon, who had previously given permission for proxy voting for those members at high risk for the virus, ruled that one member who had a one-month-old baby was ineligible for proxy voting. The member, Buffy Wicks, brought her infant to the floor where she cast the decisive vote on a housing measure. This drew national attention and an apology by the Speaker.

With the midnight witching hour, many bills were left to die, one of which would be eye-popping in another year, but seemed to fit the chaotic end of a chaotic session: Senate President Pro Tem Toni Atkins failed to get her priority housing bill, SB 1120, across the finish line.

Depending on your position, the end of session chaos was bad...or good. Here is our run down of those bills making the most news:

Rent Relief – AB 3088 delays all evictions in the state due to unpaid rent until February 2021. It does not relieve tenants of any financial obligations under their rental agreements and requires a payment of 25%. It delays the recovery of rent by landlords until March of 2021.

Plastics – Complementary bills to reduce single-use packaging and plastic waste by increasing recycling requirements failed to advance for the second year in a row. **SB 54** and **AB 1080** would have required all plastic packaging and "priority" single-use products distributed or sold in California to be recyclable or compostable by a certain date. The identical bills also set a date by which 75 percent of those products would have had to have actually been recycled or composted. The package was strongly opposed by a large contingent of business groups.

Paid Family Leave – Governor Newsom-backed expanded family leave was approved by the barest majority on the last night of session. **SB 1383** extends job-protected leave to businesses with five or more employees and would allow workers to take time off work to care for a broader set of relatives who are ill, including siblings, grandparents and grandchildren. The bill does not require employers to pay workers while they are on leave, but rather to hold their jobs until they return, for up to 12 work weeks during a 12-month period. The outcome was a defeat for business groups that fought the proposal, arguing it would put undue stress on smaller businesses that are exempt from such requirements. Ironically, the leader of the business moderate caucus provided the 41st vote for passage.

No Flavored Tobacco For You – Following the footsteps of New York, California will ban the sale of flavored tobacco and tobacco products (vaping) on January 1, 2021. The implementing legislation was **SB 793** and Governor Newsom signed it into law the moment it hit his desk.

Advance Practice Nurses – After many years of attempts, nurse practitioners and nurse midwives would gain independence under two bills approved by the legislature. **AB 890** gives full practice authority to nurse practitioners and **SB 1237** would allow nurse-midwives to deliver babies in low-risk pregnancies without physician supervision. Both bills were hotly opposed by the California Medical Association.

Workers' Compensation – Under the heading of it could have been worse, SB 1159 has passed and is headed to the governor for signature. Two other measures sought by labor, AB 196 and AB 664, did not move off the Senate floor. While business and insurers opposed SB 1159, neither labor-sponsored, conclusive-presumption bill survived.

AB 5 Cleanup - AB 2257 redefines certain workers and recasts some provisions under AB 5. Specifically, it removes the cap creative content and adds exemptions for musicians and various professions like journalists, youth sports coaches, appraisers, and insurance agents. An additional bill, AB 323 provides relief to newspaper carriers and distributors. Numerous attempts by Republicans to repeal AB 5 this year fell flat.

Re-Hire Requirements – AB 3216 was a business-versus-labor mash-up of the highest order, with COVID-19 the reason. It would require employers of hotel workers, janitors and airport staff to offer newly opened positions first to employees who lost their jobs due to the coronavirus pandemic and ensuing shutdown.

California-Labeled Drugs – SB 852 would authorize the state to contract with drug makers to produce its own low-cost generic drugs for Californians, prioritizing at least one form of insulin and medications for other chronic conditions. While the bill faced no formal opposition, this one-off idea attracted substantial attention. Given the precarious financial

condition of the state and pandemic-focused priorities, some believe actual implementation may be a jump ball.

Health Care Mergers and Acquisitions –Arguing health system consolidation increases costs without benefit, nobody would accuse Attorney General Xavier Becerra of being timid in his proposed solution. His sponsored SB 977 would have granted unprecedented authority to himself as Attorney General to approve or deny mergers of health care systems or acquisitions by private equity investors. While SB 977 moved to the precipice of being sent to the Governor, the bill was held without vote on the Assembly floor.

Personal Protective Equipment—SB 275 would require hospitals, nursing homes, dialysis clinics and other medical practices to keep a stockpile of PPE for their employees. This bill was born from the early weeks of the pandemic, when hospital workers poured in complaints their employers were not providing them adequate PPE.

Labor Wins Another – Governor Newsom backed legislation to help businesses whose workers work from home by creating a limited exemption from the “Sue Your Boss” law. Specifically, the bill would have prohibited an employee from claiming civil penalties from their employer under PAGA for meal and rest breaks if working from home. Unfortunately for SB 729, the Assembly Labor Committee had other ideas and the bill failed for lack of a motion.

