

CBPA Weekly Update: June 11, 2021

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CCRES WRAP-UP

Tuesday afternoon, June 8, we held our online California Commercial Real Estate Summit via Zoom and it was a huge success! Over 100 attendees were able to hear from Lieutenant Governor Eleni Kounalakis, Senate President pro Tempore Toni Adkins, Assembly Speaker Anthony Rendon, the Los Angeles Time's Sacramento Bureau Chief, John Myers and Senior Attorney for Pacific Legal Foundation, Damien Schiff .

CBPA staff gave critical presentations on the AB 255 (Muratsuchi), energy code, electric vehicle charging stations, and solar mandates. Lieutenant Governor Kounalakis, the highest-ranking government official to come from the real estate world, shared her insight on the issues facing the commercial real estate industry, the players and the politics involved. Senate President Toni Adkins and Assembly Speaker Anthony Rendon shared their unique perspectives, as the leaders of the State Senate and State Assembly, on the inner workings of the State Legislature and their outlook on the state economy. Damien Schiff with the Pacific Legal Foundation gave our members a detailed update on the Eviction Moratorium, which plagues our industry.

We would like to thank all the attendees for joining us, Guest Speakers for taking the time to address our industry, and the Event Sponsors for giving us the opportunity to provide this year's California Commercial Real Estate Summit without any cost.

Thank you!

CAL/OSHA COVID-19 EMERGENCY REGULATIONS CHANGED – AGAIN

Last week we reported about fast-moving regulations moving forward on revisions to California's COVID-19 workplace emergency temporary standard (ETS). And by fast moving we mean it; they have now been changed twice since initial introduction.

The regs were delayed again this week at a special meeting of the Cal/OSHA Standards Board as the board appears to be addressing many complaints a coalition of business groups, led by the CalChamber, has brought forth. Here is a summary of what happened this week:

Revisions to California's COVID-19 workplace emergency temporary standard (ETS) were delayed again this week at a special meeting of the Cal/OSHA Standards Board, but employers may find a silver lining to this cloud.

The Standards Board voted at the end of the four-hour meeting on June 9 to withdraw the revised ETS text it had approved less than a week earlier (on June 3) so the Cal/OSHA staff can make some quick changes and resubmit them to the Standards Board for a vote at its June 17 meeting.

The Board's action means the revisions approved on June 3 (which included some loosening of requirements and recognition of vaccines as a form of protection) won't go

into effect because the Office of Administrative Law (OAL) will not complete its 10-day review and approval process.

[Click here](#) to read the full meeting summary.

We continue to be an active part of the Employer coalition and will keep you informed.

Our initial comment letter can be found [here](#).

TALK WON'T SOLVE THE HOUSING CRISIS

Our good friend Loren Kaye, President of the California Foundation for Commerce and Education, has penned a great op/ed laying bare how policymakers talk about fixing the housing issue, but not only ignore obvious problems and solutions, compound them with new policies. He states, in part:

As sure as sunrise, elected leaders in Sacramento will turn down time- and money-saving reforms to build new housing, whether for sale, rent, or even subsidized shelter:

–A bill to streamline up-zoning of underused or obsolete commercial and retail properties for affordable housing could not get a vote in its first committee.

–A proposal to prevent new local regulations or fees on housing projects if they would have discriminatory impacts on protected classes of Californians was quietly stricken.

–Legislators rejected a requirement that a government agency charging an impact fee demonstrate that the amount of the fee is roughly proportional to the impact of the development.

None of these proposals would have prevented legitimate environmental analysis or litigation over development projects, none would have stopped fees from being assessed for legitimate public services, and none would have interfered with legitimate local government land use authority.

[Click here](#) to read the full article.

COMMERCIAL LEASE ABROGATION BILL DIES

AB 255 (Muratsuchi; D-Torrance) failed on the Assembly Floor this week on a 27-21 bipartisan vote. Three Democrats joined 18 Republicans voting no, and 30 legislators withheld support by abstaining.

The bill would have abrogated existing contracts to allow a business to use COVID-19 economic hardship as an “affirmative defense” as part of an unlawful detainer proceeding. The bill had provisions in it that would have allowed unnecessary court challenges and require a company to basically prove it couldn’t carry the debt of another business.

[Click here](#) to read the AB 255 current coalition letter.

Our coalition continues to agree with the author that the state mandated COVID-19 shelter-in-place orders have had negative impact on businesses of all types, but we fundamentally do not agree with the approach this bill takes to address the issue. All other relief measures provide state and/or federal funds, which the state has received in the billions. AB 255 contains no state funding assistance and instead shifts the burden to assist from one business from another.

The state's own COVID-19 Small Business Relief Grant (SB 87) allows small businesses the ability to receive state assistance while prioritizing their own fiscal needs. With more funding that program can immediately help the same businesses targeted in AB 255 without creating negative unintended consequences. And since that program, the Governor has announced BILLIONS more in tax relief and direct funding for small businesses. These programs will accomplish what AB 255 seeks to do without a complicated court proceeding.

We think the Governor and Legislature's approach is the most appropriate and best way for the state to assist the businesses having issues related the COVID economic closures; not inserting new rules into existing business contracts and court proceedings.

We are relieved the bill is not progressing forward, and that the Governor has recently announced even more assistance for small businesses as we approach re-opening in less than two weeks.

BILLS BILLS BILLS!

Here is a list of some of the bills that our industry had concerns on over the first half of session. All of these bills have been stopped at some point in the process and are “dead” for the year.

Don’t worry, there are plenty of bills left that we are concerned about. But we present these bills as a good summary of some of the major issues we have dealt with this year that are not gone and as prep for when they come back again next year!

AB 15 (Chiu) COVID-19 relief: tenancy: Tenant Stabilization Act of 2021.

This bill has been superseded by SB 91 a bill that help provide support for residential tenants with more balance to also protect property owners’ ability to manage their properties.

AB 16 (Chiu) Tenancies: COVID-19 Tenant, Small Landlord, and Affordable Housing Provider Stabilization Act of 2021.

This bill has been superseded by SB 91 a bill that help provide support for residential tenants with more balance to also protect property owners’ ability to manage their properties.

AB 33 (Ting) Energy Conservation Assistance Act of 1979: energy storage systems and transportation electrification infrastructure.

Decarbonization/Natural Gas. Directs all electric utilities to establish a rate structure for “all-electric” buildings, prohibits gas lines in newly constructed schools, and abolishes ability for new construction gas line extension allowances.

AB 65 (Low) California Universal Basic Income Program: Personal Income Tax.

Imposes a 1 percent surcharge on income greater than \$2 million to finance a California universal basic income program that would give eligible Californians \$1,000 a month.

AB 71 (Rivas, Luz) Homelessness funding: Bring California Home Act.

Massive tax increase on individuals and companies to fund homeless programs. Bill has been superseded by the Governor's budget using some of the excess state tax revenue for these purposes.

AB 111 (Boerner Horvath) Transportation: zero-emission vehicles.

We support the end goals of this bill but there is serious concern that it would create pressure on warehouses and goods movement companies to meet difficult standards that are currently not cost effective. The ISR in the L.A. has been adopted and is a similar program.

AB 255 (Muratsuchi) COVID-19 Emergency Small Business Eviction Relief Act.

Would negatively impact commercial leases and undermine legitimate contracts and create unnecessary lawsuits. Bill has been superseded by more than a dozen state and federal programs that directly fund small businesses to assist with COVID shutdown economic hardship.

AB 257 (Gonzalez, L) Food facilities and employment.

This bill puts significant fiscal and legal requirements on small business owners. Local franchisees would bear the great burden of the bill requirements, individuals who own and operate these establishments, not the franchisor.

AB 310 (Lee) Wealth tax.

Imposes a first-in-the-nation wealth tax by removing the prohibition on the taxation of personal property in the California Constitution and imposing a wealth tax of 1 percent on net household wealth of more than \$50 million and 1.5 percent on household wealth of more than \$1 billion. The tax would apply to savings, art and collectibles, offshore financial wealth, stocks, mutual funds and index funds, and other real property.

AB 377 (Rivas, R) Water quality: impaired waters.

A virtually impossible water runoff standard that would require property owners to process and clean rainwater coming off of roofs to be “drinkable.”

AB 426 (Bauer-Kahan) Toxic air contaminants.

This bill would have enacted duplicative clean air requirements.

AB 427 (Bauer-Kahan) Electricity: resource adequacy requirements.

This bill created “Behind the Meter” battery requirements that needs more thought and discussion in terms of how that fits withing the overall system of distributed energy in the state.

AB 564 (Gonzalez, L) Biodiversity Protection and Restoration Act.

Concerned that this measure preempts the important stakeholder-driven process initiated by the Administration on biodiversity; that it was duplicative of existing law, and that it defined “conservation” in a manner that could impact zoning and land use decisions.

AB 621 (Rivas, R) California Environmental Quality Act: streamlined environmental review: standard of review: hospitals.

CEQA needs to be reformed. There are concerns those piecemeal exemptions of the law will allow the law to remain unworkable for most of California. Comprehensive CEQA reform is needed.

AB 766 (Gabriel) Climate change: corporate disclosures.

This bill created a punitive tax on large employers which would have induced more companies to leave the state.

AB 854 (Lee) Residential real property: withdrawal of accommodations.

This bill made changes to longstanding CA laws that would have made it difficult for some owners of apartments to sell or convert their properties to other uses.

AB 995 (Gonzalez, Lorena) Paid sick days: accrual and use.

Although we support the goals of assuring employees have adequate time off

AB 1001 (Garcia, Cristina) Environment: air pollution and mitigation measures for air and water quality impacts.

Requires facilities applying for a new or modified permit to prepare a duplicative environmental impact report, as well as requires Air Districts to pass new rules that would apply to a greatly expanded list of facilities. Unfortunately, this new permitting scheme and expansion of regulatory rules just passed a few years ago will greatly impact local businesses in certain areas at the expense of others.

AB 1139 (Gonzalez, Lorena) Net energy metering.

Includes labor requirements on private projects that should be negotiated not mandated in statute.

AB 1161 (Garcia, Eduardo) Electricity: eligible renewable energy and zero-carbon resources: state agencies: procurement.

Bill initially included requirements for zero-carbon procurement that would make certain state projects more difficult and expensive.

AB 1179 (Carrillo) Employer provided benefit: backup childcare.

Would increase cost on employers by requiring supplemental childcare services.

AB 1188 (Wicks) State rental assistance program: data.

This bill raised privacy concerns as it required residential property owners to collect tenant information.

AB 1192 (Kalra) Employment information: worker metrics.

Would require employers to report data regarding wages, benefits, scheduling, and safety for their entire United States workforce. The data would be published on the Labor and Workforce Development Agency's website by employer name. This snapshot of data regarding employees across the entire country will unfairly subject employers to harassment by activists.

AB 1199 (Gipson) Homes for Families and Corporate Monopoly Transparency Excise Tax: qualified property: reporting requirements.

Increases the cost of housing in the state of California by imposing an excise tax on certain property owners for the "privilege of renting or leasing" space in the state.

AB 1253 (Santiago) Personal income taxes: additional tax.

Imposes a wealth tax on individuals and corporations by creating three new personal income tax surcharges on certain incomes.

AB 1256 (Quirk) Employment discrimination: cannabis screening test.

This bill raised concerns that treated one drug differently from others in terms of workplace safety.

AB 1295 (Muratsuchi) Residential development agreements: very high fire risk areas.

Concerns that this bill encroached on local zoning and land use laws and potentially would reduce much needed housing in the state.

AB 1296 (Kamlager) South Coast Air Quality Management District: district board: membership.

This bill seeks to expand the SCAQMD to 15 members by adding two slots for “Environmental Justice” representative. The board already has a lack of business representation and this bill would further erode the ability of the board to consider impacts of its rules on job producers and goods movement infrastructure.

AB 1400 (Kalra) Guaranteed Health Care for All.

This bill would have created an entirely new health care system in the state, which drew concerns from many angles regarding disruption of services, expense, and losing federal funding.

AB 1547 (Reyes) Air pollution: warehouse facilities.

A bill that targeted warehouse facilities under the auspices of air pollution. The provisions of the bill would make it almost impossible to site new warehouses and make operations for existing facilities more difficult. This is one of several bills that targeted the warehousing, goods movement, and retail sectors of the state.

SB 30 (Cortese) Building decarbonization.

Building decarbonization bill. Prohibits the design and construction of state buildings to have natural gas hookups. Prohibits state agencies from providing financial or other support for construction projects which are connected to the gas grid. Directs the California Energy Commission to set a zero-emission deadline for new building construction by 2025.

SB 31 (Cortese) Building decarbonization.

Authorizes use of EPIC funds for decarbonization of new/existing buildings. Normally, we would strongly support this approach, except this bill also requires prevailing wage for any project getting such financial assistance, which would increase the costs of many projects to the point that small and medium size businesses would not pursue.

SB 32 (Cortese) Energy: general plan: building decarbonization requirements.

Building decarbonization mandate. Requires cities and counties to incorporate into their general plan elements to decarbonize newly constructed residential and non-residential buildings, a function we believe is better done at the state level through a stakeholder process.

SB 55 (Stern) Very high fire hazard severity zone: state responsibility area: development prohibition: supplemental height and density bonuses.

Although well intended, this bill would basically cease new home and commercial building construction in most of the state.

SB 67 (Becker) Clean energy: California 24/7 Clean Energy Standard Program.

This bill seeks to alter the Renewable Portfolio Standard to create accelerated interim goals.

SB 95 (Skinner) Employment: COVID-19: supplemental paid sick leave.

Paid sick leave mandate. This bill imposes a significant cost onto small employers, who the State has already acknowledged are suffering due to this pandemic. This paid sick leave mandate would essentially negate any financial relief small employers may receive through the proposed COVID grant programs. Retroactively requires employers with only one or more employees, to provide up to 80 hours of paid sick leave per calendar year to all employees for COVID-19 related reasons.

SB 260 (Wiener) Climate Corporate Accountability Act.

Seeks to create a tracking, reporting, and mandatory goal setting scheme for climate emissions in California. Although the bill is limited to large companies, it will have an impact throughout the economy.

SB 261 (Allen) Regional transportation plans: sustainable communities strategies.

Compels the California Air Resources Board (CARB) to set future (2045 and 2050) greenhouse gas (GHG) emissions reduction targets AND vehicle miles travelled (VMT)

reduction targets for automobiles and light duty trucks for all Metropolitan Planning Organizations. Addition of these new targets will subject already adopted Regional and Metropolitan Transportation Plans and sustainable communities' strategies to future uncertainty, amendment, critique, legal challenge and costly new environmental review.

SB 324 (Limón) Unsolicited commercial mail advertisements.

The bill would make communication with geographic areas through the U.S. Mail virtually impossible. Such communications

SB 342 (Gonzalez) South Coast Air Quality Management District: board membership.

This bill seeks to expand the SCAQMD to 15 members by adding two slots for “Environmental Justice” representative. The board already has a lack of business representation and this bill would further erode the ability of the board to consider impacts of its rules on job producers and goods movement infrastructure.

SB 345 (Becker) Energy programs and projects: nonenergy benefits.

Requires that the California Public Utility Commission (CPUC) develop a common definition of “nonenergy benefits” in all distributed energy resource programs, which, in many circumstances could be contrary to the core purpose of the CPUC to determine appropriate rates and ensure reliable utility services. Prioritization of nonenergy benefits over other cost-effectiveness factors may result in increased costs that burden those very customers sought to be benefited by this bill. Incorporating environmental benefits into all of the CPUC’s demand response

programs could cause unforeseen difficulties, including unnecessary increases in rates with marginal environmental benefit.

SB 449 (Stern) Climate-related financial risk.

Targeted large corporations with burdensome reporting requirement on climate change activities. Would have put California further out of conformance with other states and risked pushing more companies to move out of state.

SB 467 (Wiener) Oil and gas: hydraulic fracturing, acid well stimulation treatments, steam flooding, water flooding, or cyclic steaming: prohibition: job relocation.

This bill would have made energy in California more expensive and gutted a major industry that provides jobs and is a huge part of the economy, especially in areas of the state like the Central Valley.

SB 499 (Leyva) General plan: land use element: uses adversely impacting health outcomes.

May negatively impact warehousing, manufacturing, retail and goods movement sectors. Requires local land use element for general plans be changed in a way that may impact on the ability to recruit/retain/operate manufacturing, warehouses, and logistics centers.

SB 696 (Allen) Enhanced infrastructure financing districts: public financing authority: membership and powers.

Although we agree with the intent of this bill, to also for more conversion of commercial property to mixed use projects where appropriate, this bill improperly expands eminent domain powers to compel participation.

All bills above are “dead” for the year.