AB 648 (Nazarian) Wellness programs

Recommended Position

Oppose

Background
Existing federal law, the federal Patient Protection and Affordable Care Act (PPACA), enacted various health care coverage market reforms that took effect January 1, 2014. Among other things, PPACA sets forth various requirements related to wellness programs, which encompass programs of health promotion or disease prevention.

The Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care (department) and makes a willful violation of the act a crime. Existing law also provides for the regulation of various insurers by the Department of Insurance, headed by the Insurance Commissioner.

Summary
This bill imposes stringent requirements on already federally regulated wellness programs and creates employer criminal and civil liability for violations of those requirements which will discourage and likely eliminate the potential for voluntary workplace wellness programs that benefit employees and contribute to a healthy workforce.

Establishes the Wellness Program Protection Act, and imposes various requirements related to wellness programs on health care services plans (health plans)/insurers/employers, including prohibitions to retaliate against an enrollee/insured/member/employee if the health plan/insurer/employer's action is in response to an individual's election not to participate in a wellness program; and, to share any personal information or data collected through a wellness program.

This bill establishes rules that govern wellness programs instituted by health plans, insurers and employers. Specifically, this bill:

1. Prohibits an employer from requiring an employee to participate in a wellness program as a condition of employment.
2. Prohibits a health plan/insurer/employer from retaliating or taking any adverse action against an enrollee/insured/member/employee if the health plans/insurer's/employer's action is in response to a matter related to a wellness program.
3. Requires a health plan/insurer/employer to comply with data privacy protections, limit sharing of data and destroy data upon conclusion of the program, and provide clear written explanations about program parameters, data collection and enrollee rights. Establishes enrollee/insured/member/employee rights to view and challenge the accuracy of their personal records.

4. Allows the Department of Managed Health Care (DMHC) Director or State Insurance Commissioner to adopt regulations to conform to federal law if this bill conflicts with federal law.
5. Subjects a person who willfully violates this bill's provisions to existing enforcement procedures and any other sanctions and penalties permitted by existing law.
6. Specifies that any person who violates the employment provisions of this bill is guilty of a misdemeanor.
7. Allows any person who believes they have been discharged or otherwise discriminated against by an employer in violation of the employment provisions of this bill to file a complaint with Department of Industrial Relations (DIR).

Status

Date	Action
01/28/20	In Senate. Read first time. To Com. on RLS. for assignment.
01/27/20	Read third time. Passed. Ordered to the Senate. (Ayes 41. Noes 21. Page 3911.)
01/27/20	Assembly Rule 63 suspended. (Ayes 58. Noes 18. Page 3893.)
01/27/20	Read second time. Ordered to third reading.
01/23/20	Read second time and amended. Ordered returned to second reading.
01/23/20	From committee: Amend, and do pass as amended. (Ayes 12. Noes 5.) (January 23).
05/16/19	In committee: Hearing postponed by committee.
04/24/19	In committee: Set, first hearing. Referred to APPR. suspense file.
04/04/19	From committee: Do pass and re-refer to Com. on APPR. (Ayes 6. Noes 1.) (April 3). Re-referred to Com. on APPR.
04/01/19	Re-referred to Com. on L. & E.
03/28/19	Assembly Rule 56 suspended. (Page 911.)
03/28/19	Read second time and amended.
03/27/19	From committee: Amend, and do pass as amended and re-refer to Com. on L. & E. (Ayes 10. Noes 3.) (March 26).
03/13/19	Re-referred to Com. on HEALTH.
03/12/19	From committee chair, with author's amendments: Amend, and re-refer to Com. on HEALTH. Read second time and amended.

Date	Action
03/11/19	Referred to Coms. on HEALTH and L. & E.
02/19/19	From printer. May be heard in committee March 21.
02/15/19	Read first time. To print.

Arguments in Support:
Consumer Reports (CR), a sponsor of this bill, writes that this bill will ensure that privacy protections exist and are sufficient to protect all enrollees of wellness programs. CR also states that this bill will also protect program enrollees against misuse and sharing of their personal data and will curb the reach of employer and insurer control over employees' and enrollees' data. CR contends that this bill will empower individuals to make more informed decisions to join or not to join a wellness program, and ensure that those who do participate can do so without giving up their right to privacy and without suffering discrimination or penalty based on participation.

Arguments in Opposition:
The California Chamber of Commerce (CCC) and other organizations, in a previous version of this bill, contend that this bill creates significant liability for employers and imposes requirements which would likely end voluntary workplace Wellness Programs that benefit employees and contribute to a healthy workforce. The CCC states that employee wellness programs are generally provided as an additional voluntary benefit or perk for working for the employer and their goal is to encourage healthy lifestyles.

AB-1907 (Santiago) California Environmental Quality Act: emergency shelters: supportive and affordable housing: exemption

Recommended Position

Discussion

Background

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment.

Summary

This bill would require the state board to establish by an unspecified date and then maintain an ongoing, dedicated program called the Constituents of Emerging Concern Program to support and conduct research to develop information and, if necessary, provide recommendations to the state board on constituents of emerging concern in drinking water that may pose risks to public health. The bill would require the state board to establish the Stakeholder Advisory Group and the Science Advisory Panel, both as prescribed, to assist in the gathering and development of information for the program, among other functions. The bill would require the program to provide opportunities for public participation, including conducting stakeholder meetings and workshops to solicit relevant information and feedback for development and implementation of the program.

This bill would establish in the State Treasury the CEC Action Fund, which, upon appropriation by the Legislature, would be administered by the state board to support and pay the costs associated with the establishment and implementation of the program, as specified.

This bill would authorize the state board to promulgate regulations pursuant to which the state board's Division of Financial Assistance may provide financial assistance to any public water system upon a showing that the costs of testing drinking water in compliance with this act would impose a financial hardship, with eligibility preference given to public water systems serving fewer than 10,000 individuals.

Status

Date	Action
02/14/20	From printer. May be acted upon on or after March 15.

Date	Action
02/13/20	Introduced. Read first time. To Com. on RLS. for assignment. To print.

AB 2246 (Mayes) Surface Mining and Reclamation Projects Act of 1975

Recommended Position

Support

Background
The Surface Mining and Reclamation Act of 1975 prohibits a person, with exceptions, from conducting surface mining operations unless, among other things, a permit is obtained from, a specified reclamation plan is submitted to and approved by, and financial assurances for reclamation have been approved by the lead agency for the operation of the surface mining operation.

The act exempts certain activities from the provisions of the act, including, among others, emergency excavations or grading conducted by the Department of Water Resources or the Central Valley Flood Protection Board for the specified purposes; surface mining operations conducted on lands owned or leased, or upon which easements or rights-of-way have been obtained, by the Department of Water Resources for the purpose of the State Water Resources Development System or flood control; and surface mining operations on lands owned or leased, or upon which easements or rights-of-way have been obtained, by the Central Valley Flood Protection Board for the purpose of flood control.

Summary
AB 2246 would amend the state's Surface Mining and Reclamation Act of 1975 (SMARA) to allow the Metropolitan Water District of Southern California (Metropolitan) to act as its own lead agency for actions subject to SMARA. Metropolitan is in the process of preparing reclamation plans for work along its Colorado River Aqueduct in Riverside and San Bernardino counties. Lead agency status would streamline the administrative and compliance process for Metropolitan, which is sponsoring the legislation.

This bill would additionally exempt from the provisions of the act emergency excavations or grading conducted by the Metropolitan Water District of Southern California for the specified purposes and surface mining operations conducted on lands owned or leased, or upon which easements or rights-of-way have been obtained, by the Metropolitan Water District of Southern California for the purpose of repairing, maintaining, or replacing pipelines, infrastructure, or related transmission systems used for the distribution of water in the specified counties.

The bill would require the Metropolitan Water District of Southern California to provide an annual report to the Department of Conservation and any affected county by the date specified by the department on these surface mining operations. To the extent this bill adds to the duties of local governments acting as a lead agency, the bill would impose a state-mandated local program.

Status

Date	Action
02/14/20	From printer. May be heard in committee March 15.
02/13/20	Read first time. To print.

SB 873 (Jackson) Gender: discrimination: pricing

Background

Existing law, the Gender Tax Repeal Act of 1995, prohibits a business establishment from discriminating against a person because of the person's gender with respect to the price charged for services of similar or like kind and specifies that this prohibition does not apply to price differences based specifically upon the amount of time, difficulty, or cost of providing the services.

Summary

Increased Litigation. Exposes businesses to costly litigation for a consumer's assertion that any price difference on "substantially similar" goods, even a nominal amount, is based on gender and therefore the consumer is entitled to a minimum of $4,000.

SB 873 creates significant exposure to costly litigation for small and large businesses for any good or product that is "substantially similar," but priced differently. The proposed definition of "substantially similar" is basically two products that do not have any "substantial differences." This ambiguity of this definition will make it extremely challenging regarding which products to even compare and will result in litigation. Enforcement of SB 873 is Civil Code Section 52(a), which is the same code section that has contributed to the disability access drive by litigation scheme in California. Specifically, Civil Code Section 52(a) provides a private right of action with a minimum statutory damage of $4,000, per violation, with the right to attorney's fees.

Gender Repeal Act Abuse

See Reese v. Wal-Mart Stores, Inc. 73 Cal.App.4th 1225 (1999) (a male customer tried to pursue a class action against the retailer for offering "Ladies Day" promotional discounts for oil changes. Evidence indicated the customer actually went into the retailer that day solely to create a claim against Wal-Mart for gender discrimination); Surrey v. TrueBeginnings, 168 Cal.App.4th 414 (1999) (denying a male customer who claimed he was denied free internet dating services as a violation of the Gender Tax Repeal Act, summary judgment based upon his lack of standing); and Angelucci v. Century Supper Club, 41 Cal.4th 160 (2007) (male customers pursued litigation against a nightclub for charging women a lower admission price). Expanding Civil Code Section 51.6 to thousands of goods will only expand the number of individuals who will target businesses and intentionally seek out alleged violations for personal financial gain.

Status

Date	Action
01/29/20	Referred to Coms. on JUD., GOV. & F., and APPR.
01/22/20	From printer. May be acted upon on or after February 21.
01/21/20	Introduced. Read first time. To Com. on RLS. for assignment. To print.

SB 996 (Portantion) State Water Resource Control Board: Constituent Emerging Concern Program

Recommended Position

Support

Background

Existing law, the California Safe Drinking Water Act, requires the State Water Resources Control Board to administer provisions relating to the regulation of drinking water to protect public health. The state board's duties include, but are not limited to, conducting research, studies, and demonstration programs relating to the provision of a dependable and safe supply of drinking water, enforcing the federal Safe Drinking Water Act, and adopting and enforcing regulations.

Constituents of Emerging Concern (CECs) are a diverse group of chemicals and microorganisms that are not currently regulated in drink- ing water. They can be detected in very small amounts. Over the years, particular CECs have received growing public attention as potential pollutants in drinking water supplies. Yet, the full extent and risk of their presence is not well understood.

The Metropolitan Water District of Southern California and the California Municipal Utilities Association are co-sponsoring legislation in response to this growing issue that would establish a CEC Drinking Water Program at the State Water Resources Control Board (State Water Board). The program would set up a consistent and science-based approach for assessing the public health and drinking water consequences of CECs, while identifying which CECs warrant further action.

Summary

The bill would establish a Constituents of Emerging Concern (CECs) Drinking Water Program at the State Water Resources Control Board (State Water Board) to set up a consistent and science-based approach for assessing the public health and drinking water consequences of CECs and identifying which CECs warrant further action. This bill is co-sponsored by the Metropolitan Water District of Southern California (Metropolitan) and the California Municipal Utilities Association.

SB 996 would require the State Board to:

- Establish a CECs Drinking Water Program to identify, evaluate, and prioritize actions for CECs in drinking water sources.
- - Create a Science Advisory Panel of at least seven members comprised of experts from the fields of public health science, water and wastewater engineering, toxicology, epidemiology, chemical sciences and biological sciences. The panel's duties shall include recommending new CEC monitoring requirements, identifying CEC candidates based on potential public health effects, evaluating new monitoring approaches for CECs, and

developing recommended standard testing and reporting procedures, among other duties.

- Create a Stakeholder Advisory Group of at least nine members representing broad stakeholder interests including public water and wastewater systems, trade associations, the business community, and academic institutions. The advisory group will provide input on matters associated with the program, including research needs, program funding and implementation strategies.
- Establish in the State Treasury the CEC Action Fund, which upon appropriation would be administrated by the State Board.

Status

Date	Action
02/14/20	From printer. May be acted upon on or after March 15.
02/13/20	Introduced. Read first time. To Com. on RLS. for assignment. To print.

Paid Family Leave Act- Budget Trailer Bill

Recommended Position

Oppose

Background

Trailer bill language (referred to as "TBL") don't always follow a standard trail of logic. Instead, trailer bills are sometimes used as vessels to sneak past opposition, avoid a 2/3 vote, or even thwart problematic ballot initiatives. At the beginning of each year, dozens of trailer bills are introduced by the Assembly and Senate Budget Committees. When first introduced, they are empty except for some generic placeholder language. They stay like that for months while closed door negotiations take place between the Legislature, Governor's staff, and select stakeholders. Once agreement is reached, the Governor's staff at Department of Finance provides language to drop into the trailer bills and so begins the frenzy of lobbying activity.

Summary

Would significantly harm small employers in California by requiring all employers to provide 12-weeks of protected leave of absence each year and up to 7 months of job protected leave for employers with 5 or more employees when pregnancy disability leave is involved. This is in addition to existing leaves of absences already required, exposing employers to costly litigation for any alleged violation of these leave laws. The PFL Trailer Bill language is similar to a 2019 Senate Bill, SB 135 (Jackson), which failed passage— arguably because it would have placed the same significant burdens on small businesses as this proposed language.

However, the PFL Trailer Bill language greatly expands the definition of "family member" to include a child of a domestic partner, grandparent, grandchild, sibling, or domestic partner. Additionally, the bill removes the requirement that a "child" be under the age of 18 or a dependent adult child. Because a domestic partner, a child of a domestic partner, a grandparent, a grandchild, or a sibling are not family members covered under FMLA, these leaves will not coincide.

Accordingly, the employee could take leave under the PFL Trailer Bill for 3 months to care for a domestic partner, child of a domestic partner, grandparent, grandchild, or sibling, return to work, and then take another 3 months off under FMLA for the employee's own medical condition or the medical condition of a spouse, child or parent or for the birth, adoption or foster care placement of a child.