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COMPENDIUM OF 2011 NOTABLE CALIFORNIA LEGISLATION ©

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Governor Jerry Brown's deadline for signing or vetoing bills for this legislative session was October 9, 2011 [Art. IV, Sec. 10(b)(2)]. Bills without urgency provisions will take effect January 1, 2012 [Art. IV, Sec. 8(c)]. The Legislature will reconvene on January 4, 2012.

This *Compendium* sets out enacted bills in 2011 that our firm was asked to research, even before the Governor signed the bills into law, or that drew support or opposition from interested entities such as the State Bar, League of California Cities, the California Chamber of Commerce, and the California Teachers Association, just to name a few. Chaptered laws are identified herein with a "c." and indicates the bill described was enacted into law.

This *Compendium* is not intended to be exhaustive. There are only 100 bills noted herein. If you are interested in legislation not noted that was enacted in this Legislative Session, please contact us.

There is an **Index** at the end of this *Compendium* for your easy reference in locating specific legislation.

<u>TOPICS</u>	<u>Page</u>
APPELLATE	2
BUSINESS AND PROFESSIONS	2
CIVIL	2
CIVIL PROCEDURE	3
CIVIL RIGHTS	3
COURTS	3
EDUCATION	4
ELECTIONS	4
ENVIRONMENT	4
FAMILY LAW	5
FISH AND GAME	6
HEALTH & SAFETY	6
IMMIGRATION	7
INSURANCE	7
JUDGES AND JURIES	8
LABOR	8
MUNICIPAL LAW	11
PENAL	11
PENSIONS	12
PUBLIC CONTRACTS	12
PUBLIC RESOURCES	13
PUBLIC UTILITIES	13
REAL PROPERTY	13
TAXATION	14
TRUSTS AND ESTATES	15
VEHICLES	16
VETERANS	16
WATER	16
WELFARE AND INSTITUTIONS	16
WORKERS COMPENSATION	17
INDEX OF BILLS	18

APPELLATE

AB 1067, c. 78 (Huber): Civil procedure, orders. Provides that an order denying a motion for reconsideration made as specified, is not itself separately appealable. Further provides that if the order that was the subject of a motion for reconsideration is appealable, then the denial of the motion for reconsideration is reviewable as part of an appeal from that order.

BUSINESS AND PROFESSIONS

AB 183 c. 726 (Ma): Alcoholic beverage licenses; self-service checkouts. Prohibits off-sale licensees from selling alcoholic beverages using a customer-operated checkout stand located on the licensee's physical premises. Makes findings and declarations regarding the effects of allowing alcoholic beverages to be sold using self-service checkouts.

SB 543, c. 448 (Steinberg): Business and professions, regulatory boards. Extends the sunset date of a number of boards, committees and commissions within the Department of Consumer Affairs and makes programmatic and administrative changes to some of these entities.

SB 746 c. 664 (Lieu): Tanning facilities. Prohibits persons under the age of 18 from being exposed to potentially dangerous ultraviolet (UV) radiation by tanning in UV tanning devices.

CIVIL

AB 887, c. 719 (Atkins): Gender. Clarifies the definition of gender under the Fair Employment and Housing Act and the Unruh Civil Rights Act and other anti-discrimination laws. Expressly includes the terms "gender identity" and "gender expression" wherever the term "gender" currently appears and would prohibit employers, schools, and housing authorities from discriminating based on a person's gender identity or gender expression. Expressly specifies that "gender" means sex, and includes a person's gender identity and gender

expression. Also specifies that "gender expression" means "a person's gender-related appearance and behavior whether or not stereotypically associated with the person's assigned sex at birth."

AB 1219, c. 690 (Perea): Credit cards, personal information. Creates a new exception to existing law's prohibition against the collection of zip codes during credit card sales transactions. Permits the collection of zip code information when a person or entity accepting a credit card in a sales transaction at a retail motor fuel dispenser or retail motor fuel payment island automated cashier uses the zip code information solely for prevention of fraud, theft, or identity theft.

SB 332 c. 264 (Padilla): Rental dwellings, smoking. Codifies the ability of a residential landlord to prohibit smoking on the property or in any building or portion of the building, including any dwelling unit. Requires every lease entered into on or after January 1, 2012 for residential real property where the landlord has prohibited smoking to include a provision specifying the areas where smoking is prohibited. For leases entered into prior to January 1, 2012, a prohibition against smoking on any portion of the property in which smoking was previously permitted shall constitute a change of terms of tenancy requiring adequate notice, as specified. This bill states that a landlord who exercises the above authority shall be subject to state and local notice requirements governing changes to the terms of rental agreements that are in existence at the time the policy is adopted.

SB 850, c. 714 (Leno): Medical records, confidential information. Requires electronic health record systems or electronic medical record systems to automatically record and preserve any change or deletion of any electronically stored medical information and would enact related requirements. Clarifies that existing law relating to the destruction of medical records applies to medical information, thus including information kept in both physical and electronic form.

CIVIL PROCEDURE

SB 384, c. 419 (Evans): Civil actions. This bill, until January 1, 2015, allows a motion for summary adjudication of a legal issue or claim for damages (other than punitive damages) that does not completely dispose of a cause of action, affirmative defense, or an issue of duty, upon the stipulation of the parties and a prior determination by the court that the motion will further the interests of judicial economy by reducing the time required for trial or significantly increasing the ability of the parties to settle. The bill would also set forth procedures for filing of the requires the payment of a single complex case fee on behalf of all plaintiffs, as specified, and make other conforming changes.

CIVIL RIGHTS

SB 559, c. 261 (Padilla): Discrimination, genetic information, Unruh Civil Rights Act, FEHA. Prohibits discrimination under the Unruh Civil Rights Act and the Fair Employment and Housing Act on the basis of genetic information. Prohibits discrimination in state government programs, benefits and activities, or in programs receiving financial assistance from the state on the basis of genetic information. Defines "genetic information" as information about any of the following: a) an individual's genetic tests; b) the genetic tests of family members of the individual; and, c) the manifestation of a disease or disorder in family members of the individual. Includes in the meaning of genetic information any request for, or receipt of, genetic services, or participation in clinical research that includes genetic services by an individual or any family member of the individual. Excludes information about sex or age of an individual from the definition of genetic information. States the findings and intent of the Legislature that, among other things: a) because some genetic traits are most prevalent in particular groups, members of a particular group may be stigmatized or discriminated against as a result of that genetic information; b) examples of genetic discrimination in the workplace include the use of pre-employment genetic screening at Lawrence

Berkeley Laboratory; and, c) the State of California has a compelling public interest in realizing the medical promise of genomics, but also has a compelling public interest in relieving the fear of discrimination and in prohibiting its actual practice.

COURTS

AB 1403, c. 409 (Assembly Committee on Judiciary): Civil Actions. Provides that the deadline for acceptance or rejection of the addition or reduction of damages is 30 days from the date the conditional order is served by the clerk of the court, if a deadline is not set forth in the conditional order. Provides that failure to respond to the order shall be deemed a rejection of the addition or reduction of damages, and a new trial limited to the issue of damages shall be granted automatically. In addition, a party filing and serving an acceptance of a conditionally ordered addition or reduction of damages must concurrently serve and submit to the court a propose amended judgment reflecting the modified judgment amount, as well as any other uncontested judgment awards. Provides that a prevailing party could recover costs for court interpreter fees for a qualified court interpreter, authorized by the court for an indigent person as specified, and also makes non-substantive changes to the existing voir dire statute.

SB 78, c. 10 (Senate Committee on Budget and Fiscal Review): Administration of justice. Makes statutory changes necessary to implement the Public Safety portion of the 2011-12 Budget Bill including key changes the Department of Justice Legal Services, Office of the Inspector General peace officer status, Court Case Management System independent review, Court Security fee extension, Conservatorship and Guardianship Act of 2006, and Judicial Branch contracting compliance with the Public Contract Code's provisions relating to state agencies and departments.

SB 221, c. 64 (Simitian): Small claims court, jurisdiction. Increases the small claims court jurisdictional limit from \$7,500 to \$10,000 in an

action brought by a natural person. Until January 1, 2015, delays operation of this section with respect to bodily injury claims resulting from vehicle accidents.

SB 731, c. 49 (Senate Committee on Judiciary): Civil actions. Clarifies that existing law relating to vexatious litigants applies to matters in the Courts of Appeal. Creates a process for the courts to follow when a vexatious litigant seeks removal from Judicial Council's vexatious litigant list, and this bill also makes changes to the judicial arbitration program by allowing parties to file a request for dismissal following a satisfactory arbitration, as well as other changes, as specified.

EDUCATION

AB 554, c. 499 (Atkins): Employment, community colleges, apprenticeships, workforce services. Directs the state and local Workforce Investment Boards to ensure that programs and services funded by the Work Investment Act (WIA) are conducted in coordination with apprenticeship programs and would encourage collaboration between community colleges and apprenticeship programs. Specifically, (1) requires the California Workforce Investment Board (CWIB) and each local board to ensure that programs and services funded by WIA and directed to apprenticeable occupations, including preapprenticeship training, are conducted to the maximum extent feasible, in coordination with apprenticeship programs approved by Division of Apprenticeship Standards for the occupation and geographic area; and (2) requires the CWIB and each local board to develop a policy of fostering collaboration between community colleges and approved apprenticeship programs in their respective geographic areas to provide pre-apprenticeship training, apprenticeship training, and continuing education in apprenticeable occupations through approved apprenticeship programs.

AB 1330, c. 621 (Furutani): Graduation requirements, career technical education. Commencing with the 2012-13 school year, adds career technical education, as defined, as an option

for pupils to fulfill the existing high school graduation requirement to complete a course in visual or performing arts or foreign language, and requires school districts that elect this option to notify parents, teachers, pupils and the public, as specified.

SB 161, c. 560 (Huff): Schools, pupil health, emergency medical assistance; epilepsy medication. Allows school districts, county offices of education or charter schools to participate in a program to train nonmedical school employees who volunteer to administer emergency anti-seizure medication to students with epilepsy.

ELECTIONS

AB 459, c. 188 (Hill): Presidential elections, Electoral College, interstate compact. Ratifies an interstate compact whereby the state agrees to award its electoral votes to the Presidential ticket that received the most popular votes nationwide, if certain conditions are met.

SB 202, c. 558 (Hancock): Elections, ballot measures, initiatives. Provides that state initiative and referendum measures that qualify for the ballot on or after July 1, 2011, shall appear on the ballot only at the November statewide general election or at a statewide special election.

SB 397, c. 561 (Yee): Online voter registration. Permits online voter registration to begin prior to the completion of a new statewide voter registration database, if certain conditions are met.

ENVIRONMENT

AB 291, c. 569 (Wieckowski): Underground storage tanks, petroleum, charges. Extends for two years a temporary fee, from 1.4 mils to 2 mils, per gallon on motor vehicle fuel (petroleum storage fee), that the owner of an underground storage tank must pay.

AB 341, c. 476 (Chesbro): Solid waste, diversion. Requires a commercial waste generator to arrange for recycling services; requires a local government to implement a commercial solid waste recycling program designed to divert solid waste from businesses; and also requires the Department of Resources and Recycling and Recovery, on or before January 1, 2014 to submit a report to the Legislature that provides strategies to achieve the state's policy goal that not less than 75 percent of added waste generated be source reduced, recycle, or composted by the year 2020, and annually thereafter which is to include specified information.

AB 358, c. 571 (Smyth): Hazardous substances, underground storage tanks, releases, reports. (1) Requires the owner or operator of an underground storage tank (UST) to send specified information to the State Water Resources Control Board (SWRCB) regarding an unauthorized release of hazardous substances in USTs to local agencies on a written or electronic form developed by the board, (2) requires each regional board and local agency to submit a report to SWRCB for all unauthorized releases using the board's Internet-accessible database, (3) allows SWRCB to adopt regulations to specify reporting requirements to implement the provisions of the bill, including electronic submission requirements for these reports and requires the regulations to be adopted as emergency regulations and exempts the adoption of these regulations from certain requirements regarding review by the Office of Administrative Law, (4) allows a person required to perform corrective action under certain federal laws to apply to the board for payment of a claim, and (5) changes made by this bill only become operative if AB 291 (see above) is chaptered.

SB 771, c. 598 (Kehoe): California Alternative Energy and Advanced Transportation Financing Authority. Specifies that landfill and digester gas turbines, engines, and microturbines may be considered renewable energy eligible for financial assistance under the California Alternative Energy and Advanced Transportation Financing Authority Act.

SB 2x, c. 1x (Simitian): Energy, renewable energy resources. Increases California's renewables portfolio standard to require all retail sellers of electricity and all publicly owned utilities to procure at least 33% of electricity delivered to their retail customers from renewable resources by 2020.

FAMILY LAW

AB 687, c. 462 (Fletcher): Adoption. Makes several changes to the adoption process, including: (1) provides that when the inquiry is being made into the natural father of a child who is being proposed to be adopted that it also include the names and whereabouts of every man presumed to be the father and the efforts made to give notice of the proposed adoption; (2) provides that notice of the adoption proceeding to the man identified as the natural father is not required when the man's relationship to the child has been previously terminated or when the man has executed a written form to waive notice, deny paternity, relinquish the child for adoption, or consented to the adoption; (3) provides that a licensed private adoption agency is authorized to process non-dependent children adoptions through the Interstate Compact on the Placement of Children, in specified circumstances; (4) provides that the court may issue an adoption order nunc pro tunc in specified circumstances; (5) provides that a petition challenging an adoption on the basis of fraud must be commenced within three years of the order, or 90 days of discovering the fraud; (6) provides multiple venue options for an adult adoption; and (7) provides that a new adoption birth certificate be issued in a timely manner.

AB 1349, c. 185 (Hill): Paternity, conflicting presumptions. Authorizes a presumed father to bring a motion within two years of execution of a voluntary declaration of paternity to set aside that declaration. The court will be required to consider the best interests of the child as well as specified factors, including the nature, duration, and quality of the petitioning party's relationship with the child in deciding whether to set aside the voluntary declaration of paternity. Provides that, in the event of a conflict between a rebuttable

presumption of paternity and the voluntary declaration of paternity, the "weightier considerations of policy and logic control." Provides that a voluntary declaration of paternity is invalid if any of the following conditions exist: (1) the child already has a presumed parent because the child was born during a marriage; (2) the child already has a presumed parent under Family Code Section 7611; or (3) the man signing the declaration is a sperm donor and agreed to paternity of the child, in writing, prior to conception of the child, and signed by the donor and the woman.

SB 651, c. 721 (Leno): Family law, domestic partnerships. Eliminates the requirement that domestic partners have a common residence in order to establish a registered domestic partnership.

FISH AND GAME

AB 376, c. 524 (Fong): Shark fins. Prohibits the possession, sale, or distribution of shark fins in the state, with certain exceptions. Exceptions include possession of shark fins for permitted scientific activities and the legal take of sharks pursuant to a valid commercial or recreational fishing license. In addition, restaurants may possess and sell shark fins purchased before January 1, 2012 until January 1, 2013.

AB 486, c. 656 (Hueso): Controlled substances. Provides that any person who sells, dispenses, distributes, or gives the stimulant substances naphthylpyrovalerone or cathinone, or specified variations of these drugs, or who possesses that compound or derivative for sale, or who offers to do such acts, is guilty of a misdemeanor, punishable by a jail term of up to six months, a fine of up to \$1,000, or both. Also does not include naphthylprovalerone, as specified, and cathinone, as specified, in the controlled substance schedules.

AB 853, c. 525 (Fong): Sharks. Creates exemptions from a shark fin prohibition proposed by AB 376 (see above). This bill requires the

Ocean Protection Council to submit an annual report to the Legislature that lists any shark species that have been independently certified to meet internationally accepted standards for sustainable seafood, as provided.

HEALTH AND SAFETY

AB 151, c. 270 (Monning): Medicare supplement coverage. Allows an individual to drop Medicare Advantage (MA) coverage and enroll in Medicare supplement coverage of the same issuer, or the issuer's parent company, if the MA issuer increases premiums. If Medicare supplement coverage is not available from the same issuer, or parent company, allows an individual under limited circumstances to enroll in Medicare supplement coverage of an unaffiliated issuer. Deletes obsolete references in law and recognizes two new Medicare supplement plans (M and N).

AB 604, c. 744 (Skinner): Needle exchange programs. Permits the Department of Public Health (DPH), until January 1, 2019, to authorize specified entities to provide hypodermic needle and syringe exchange services, as specified, in any location where DPH determines that the conditions exist for the rapid spread of human immunodeficiency virus (HIV), viral hepatitis, or any other potentially deadly or disabling infections that are spread through the sharing of used needles and syringes.

AB 1319, c. 467 (Butler): Product safety; BPA. Enacts the Toxin-Free Infants and Toddlers Act, which would, except as specified, prohibit, on and after July 1, 2013, the manufacture, sale, or distribution in commerce of any bottle or cup that contains bisphenol A (BPA), at a detectable level above 0.1 parts per billion (ppb), if the bottle or cup is designed or intended to be filled with any liquid, food, or beverage intended primarily for consumption by infants or children three years of age or younger. This prohibition would cease to be implemented for an item, on the date that a prescribed notice is posted regarding the department's adoption of related regulations.

SB 222, c. 509 (Evans): Maternity services.

1) Requires every individual health insurance policy to provide coverage for maternity services for all insureds covered under the policy on or before July 1, 2012. 2) Defines "maternity services" to include prenatal care, ambulatory care maternity services, involuntary complications of pregnancy, neonatal care, and inpatient hospital maternity care, including labor and delivery and postpartum care. 3) Requires the definition of "maternity services" from 2) above to remain in effect until federal regulations and guidance issued according to the federal health reform law, the Patient Protection and Affordable Care Act (PPACA), define the scope of benefits to be provided under the maternity benefit requirement and at that time the PPACA definition is to apply. 4) Exempts from the provisions of this bill specialized health insurance, Medicare supplement insurance, short-term limited duration health insurance, Civilian Health and Medical Program of the Uniformed Services-supplement insurance, or TRI-CARE supplemental insurance, or hospital indemnity, accident-only, or specified disease insurance. 5) Makes findings and declarations.

SB 303, c. 233 (Padilla): Food safety, food handlers.

Clarifies that existing law requiring a food handler to obtain a food handler card only applies to food handlers employed at a food facility that sells food for human consumption to the general public, requires that after January 1, 2012, a food handler must obtain a food handler card exclusively from a nationally accredited training provider, and clarifies that snack bars, prisons and county jails, and elderly nutrition programs are exempt from the food handler certification requirements.

SB 946, c. 650 (Steinberg): Health care coverage, mental illness, pervasive developmental disorder or autism, public health.

Requires health plans and health insurance policies to cover behavioral health therapy for pervasive developmental disorder or autism, requires plans and insurers to maintain adequate networks of autism service providers, establishes an Autism Advisory Task Force in the Department of Managed Health Care, sunsets this bill's autism mandate provisions on July 1, 2014,

and makes other technical changes to existing law regarding HIV reporting and mental health services payments.

IMMIGRATION

AB 130, c. 93 (Cedillo): Student financial aid, eligibility, California Dream Act of 2011. Requires, beginning January 1, 2012, that AB 540 (Firebaugh), Chapter 814, Statutes of 2001, students attending the California State University, the California Community Colleges, or the University of California be eligible to receive a scholarship derived from non-state funds (received for the purpose of scholarships) at the segment where the student is enrolled.

AB 131, c. 604 (Cedillo): Student financial aid. Establishes the California Dream Act of 2011 which expands the existing exemption from non-resident tuition established by AB 540 (Firebaugh), Chapter 814, Statutes of 2001, to include students who graduate from technical schools and adult schools and, beginning July 1, 2012, expands eligibility for financial aid benefits to all students exempt from paying non-resident tuition under AB 540.

INSURANCE

AB 36, c. 17 (Perea): Income and employment taxes, federal conformity, Health Care and Education Reconciliation Act of 2010. Conforms to the federal changes in the law for dependents under age 27. Specifically, conforms to the federal age requirement for employer-provided health coverage and reimbursements for medical care expenses under an employer-provided accident or health plan, deductible self-employed medical insurance costs, and voluntary employees' beneficiary associations. Also conforms to the federal change under the unemployment insurance law.

AB 173, c. 70 (Gatto): Armenian Genocide victims. Extends a December 31, 2010 statutory deadline in order to authorize any victims of the

Armenian Genocide, or their heirs or beneficiaries, who reside in California, and have a claim arising out of an insurance policy purchased or in effect in Europe or Asia from 1875-1923, to bring suit in California seeking benefits under those insurance policies from insurers. Provides that such actions shall not be dismissed for failure to comply with the otherwise applicable statute of limitation provided that the action is filed on or before December 31, 2016.

AB 315, c. 83 (Solorio): Surplus line brokers. Conforms California law applicable to surplus line insurance to mandatory changes included in the federal Nonadmitted and Reinsurance Reform Act provisions of last year's Dodd-Frank Wall Street Reform and Consumer Protection Act.

AB 793, c. 223 (Eng): Insurance producers, reverse mortgages. Prohibits an insurance broker or agent from participating in or employing any party that participates in the origination of a reverse mortgage, except as specified.

JUDGES AND JURIES

AB 141, c. 181 (Fuentes): Jurors, electronic communications. (1) Adds to existing jury admonishments the duty not to conduct research or disseminate information and also requires the court to clearly explain, as part of that admonishment, that the prohibition on research, dissemination of information, and conversation applies to all forms of electronic or wireless communication, (2) clarifies that existing prohibitions of communications between the officer having the jury under his charge and members of that jury includes electronic or wireless communications, and (3) makes the willful disobedience by a juror of a court admonishment related to the prohibition of any form of communication or research about the case, including all forms of electronic or wireless communication or research, a contempt of court and a misdemeanor.

LABOR

AB 22, c. 724 (Mendoza): Employment, credit reports. Prohibits an employer, or prospective employer with the exception of certain financial institutions, from obtaining a consumer credit report, as defined, for employment purposes unless the information is (1) substantially job-related, meaning that the position of the person for whom the report is sought has access to money, other assets, or confidential information, and (2) the position of the person for whom the report is sought is a position in the state Department of Justice, a managerial position, as defined, that of a sworn peace officer or other law enforcement position, or a position for which the information contained in the report is required to be disclosed by law or to be obtained by the employer.

AB 240, c. 272 (Bonilla): Compensation recovery actions, liquidated damages. Authorizes the Labor Commissioner to recover liquidated damages for an employee who brings a complaint alleging payment of less than the minimum wage, and also provides that if an employer demonstrates to the satisfaction of the Labor Commissioner that the failure to pay the minimum wage was in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation of minimum wage law or regulations, the Labor Commissioner may, in its discretion, refuse to award liquidated damages or award a lesser amount of liquidated damages to the employee.

AB 243, c. 671 (Alejo): Labor contractors. Following a veto last year of a similar bill, AB 243 requires an employer who is a farm labor contractor (FLC) to disclose on the itemized payroll statement furnished to employees the name and address of the grower or other FLCs that secured the employer's services. Provides that the listing by the FLC of the name and address of the legal entity that secured the services of the employer on the itemized payroll statement shall not create any liability on the part of that legal entity.

AB 378, c. 545 (Solorio): Workers' compensation, pharmacy products. (1) Prohibits physicians from referring a patient for pharmacy goods if that physician has a financial interest in the entity that receives the referral, (2) prohibits the maximum reasonable fees paid for pharmacy services and drugs from including specified reductions in the relevant Medi-Cal payment system, (3) requires any compounded drug product, as defined, to be billed by the compounding pharmacy or dispensing physician at the ingredient level, as prescribed, and in accordance with regulations adopted by the California State Board of Pharmacy, and sets specified maximum reimbursement for a dangerous drug, dangerous device, or other pharmacy goods, dispensed by a physician, and would define related terms, (4) prohibits a provision concerning physician-dispensed pharmacy goods from being superseded by any provision of the official medical fee schedule adopted by the administrative director unless the official medical fee schedule provision is expressly applicable, and also requires the provision adopted by the administrative director to govern if a provision concerning physician-dispensed pharmacy goods is inconsistent with the prescribed official medical fee schedule, and (5) deletes obsolete provisions relating to the adoption of a medical fee schedule for patient facility fees for burn cases.

AB 469, c. 655 (Swanson): Employees, wages. (1) Provides that in addition to being subject to a civil penalty, any employer who pays or causes to be paid to any employee a wage less than the minimum fixed by an order of the Labor Commission shall be subject to paying restitution of wages to the employee; (2) makes it a misdemeanor if an employer willfully violates specified wage statutes or orders, or willfully fails to pay a final court judgment or final order of the Labor commission for wages due; (3) extends the period within which the division may commence a collection action, as defined, from one year to three years, (4) extends the time required for a subsequently convicted employer to maintain a bond from six months to two years and requires that a subsequently convicted employer provide an accounting of assets, as specified, to the Labor

Commissioner; (5) requires an employer to provide each employee, at the time of hiring, with a notice that specifies the rate and the basis, whether hourly, salary, commission, or otherwise, of the employee's wages and to notify each employee in writing of any changes to the information set forth in the notice within seven calendar days of the changes unless such changes are reflected on a timely wage statement or another writing, as specified. No notice is required for an employee who is employed by the state or any subdivision thereof, exempt from the payment of overtime, or covered by a collective bargaining agreement containing specified information; (6) in addition to the crime and employer obligations imposed by this bill, the Labor Code provides for other work-related standards and duties that, upon violation, are subject to specified penalties; (7) states that the Labor Code establishes minimum penalties for failure to comply with wage-related statutes and regulations.

AB 592, c. 678 (Lara): Employment, leave, interference, restraint, and denial. Clarifies that it is an unlawful employment practice to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right provided under the California Family Rights Act or due to disability by pregnancy, childbirth, or related medical conditions. Also declares that this clarification is declarative of existing law.

AB 1236, c. 691 (Fong): Employment, hiring practices, electronic employment verification. Creates the Employment Acceleration Act of 2011 to enact provisions of law related to the use by employers of specified federal electronic employment verification systems. Specifically, (1) except as required by federal law or as a condition of receiving federal funds, prohibits the state, a city, county, city and county, or special district from requiring an employer to use an electronic employment verification system, including under the following circumstances: (a) as a condition of receiving a government contract; (b) as a condition of applying for or maintaining a business license; and, (c) as a penalty for violating licensing or other similar laws, (2) defines an "electronic

employment verification system" as a system that allows employers to electronically verify workers' employment authorization with the federal government, including the Basic Pilot (renamed in 2007 as E-Verify) Program. However, this term does not include the I-9 Employment Eligibility Verification form or any other employment verification systems that are required by federal law, and (3) makes several findings and declarations pertaining to the deficiencies of electronic employment verification programs.

AB 1396, c. 556 (Assembly Committee on Labor and Employment): Employment contract requirements. Requires that all employers provide a written contract to employees who are paid commission. (1) Declares legislative intent of this bill, in light of the Federal District Court (No. Dist.) decision of *Lett v. Paymentech*, to restore the employee protections that had been in effect by making Labor Code § 2751 apply equally to employers with a fixed place of business in the state and to employers who do not have a fixed place of business in the state, (2) requires all employers, by January 1, 2013, to provide a written contract, with specified details, to employees who are paid commission, (3) adds when a contract expires and where the parties continue to work under the terms of the expired contract, the contract terms are presumed to remain in full force and effect until the contract is superseded or employment is terminated by either party, and (4) repeals the provision of law which states that an employer shall be liable to the employee in a civil action for treble damages when an employer does not provide a written commission contract, as specified.

SB 126, c. 697 (Steinberg): Agricultural labor relations. Makes a number of changes to the Agricultural Labor Relations Act, such as: provides that if the Agricultural Labor Relations Board (ALRB) sets aside an election because of employer misconduct that (in addition to affecting the outcome of an election) would render slight the chances of a new election reflecting the free and fair choice of employees, the labor organization shall be certified as the exclusive bargaining representative for the bargaining unit. Imposes time limits to certain ALRB proceedings.

Shortens the time under current law for a request for mandatory mediation from 180 days to 90 days after an initial request to bargain. Provides that a party may also request mandatory mediation in the specified circumstances. Provides that the mandatory mediation proceedings of current law shall not be stayed on the grounds that a specified petition for review of an ALRB order related to unfair labor practice charges have been filed. Expands existing law related to judicial injunctions to provide that the court shall also consider the indirect effect upon protected rights of all agricultural employees of the employer in determining whether temporary relief is just and proper. Provides that when the alleged unfair labor practice is such that, by its nature, it would interfere with employee free choice, appropriate temporary relief or a restraining order shall issue on a showing that reasonable cause exists to believe that the unfair labor practice has occurred. The order shall remain in effect until an election has been held or for 30 days, whichever occurs first. Provides that temporary relief or restraining orders shall not be stayed pending appeal.

SB 459, c. 706 (Corbett): Employment, independent contractors. (1) Prohibits willful misclassification, as defined, of individuals as independent contractors, (2) prohibits charging individuals who have been mischaracterized as independent contractors a fee or making deductions from compensation, as specified, where those acts would have violated the law if the individuals had not been mischaracterized, (3) authorizes the Labor and Workforce Development Agency (Agency) to assess specified civil damages against, and requires the Agency to take other specified disciplinary actions against, persons or employers violating these prohibitions, (4) requires the Agency to notify the Contractors' State License Board (CSLC) of a violator that is a licensed contractor, and requires the CSLC to initiate an action against the licensee, (5) authorizes an individual to file a complaint, as specified, to request the Labor Commissioner to issue a determination that a person or employer has violated these prohibitions with regard to the individual filing the complaint, (6) authorizes the Labor Commissioner to assess civil and liquidated damages against a person or employer based on a determination that the person or employer has

violated these prohibitions, (7) provides that a person who, for money or other valuable consideration, knowingly advises an employer to treat an individual as an independent contractor to avoid employee status for the individual shall be jointly and severally liable with the employer if the individual is not found to be an independent contractor, and (8) exempts from the provisions regarding joint and several liability a person who provides advice to his/her employer or an attorney who provides legal advice in the course of practicing law.

MUNICIPAL LAW

AB 26x, c. 5x (Blumenfield): Community redevelopment. Makes various changes to state laws to implement provisions relating to redevelopment in the 2011-12 budget agreement and is the first of two budget trailer bills that address redevelopment agencies (RDAs). This bill eliminates redevelopment agencies and directs the resolution of their activities. The second bill, SB 15 X1 or AB 27 X1, creates an alternative voluntary redevelopment program. This bill would not become effective unless the second bill also becomes effective. The requirements of this bill would affect RDAs that elect not to participate in the alternative voluntary redevelopment program.

AB 27x, c. 6x (Blumenfield): Voluntary Alternative Redevelopment Program. Makes various changes to state laws to implement provisions relating to redevelopment in the 2011-12 Budget Act and is the second of two budget trailer bills that address redevelopment agencies (RDAs). This bill creates an Alternative Voluntary Redevelopment Program for cities or counties to opt into. The first bill, SB 14 X1 or AB 26 X1, eliminates redevelopment agencies and directs the resolution of their activities. The first bill would not become effective unless this bill also becomes effective. The requirements of this bill would affect communities that elect to participate in the Alternative Voluntary Redevelopment Program and the first bill would not apply.

AB 506, c. 675 (Wieckowski): Local government, bankruptcy, neutral evaluation. Authorizes a local public entity to file a petition and exercise powers pursuant to applicable federal bankruptcy law if it either participates in a neutral evaluation process, or declares a fiscal emergency. Among its many provisions, contains extensive legislative findings and declarations supporting the need to establish a neutral evaluation process for municipalities in fiscal distress. As constitutionally required by Proposition 59 (2004), this bill also includes legislative findings and declarations regarding the necessity of maintaining the confidentiality of neutral evaluation proceedings.

PENAL

AB 109, c. 15 (Assembly Committee on Budget): Criminal justice alignment. Makes statutory changes that are necessary to implement provisions of the Budget Bill related to realignment of certain low level offenders, adult parolees, and juvenile offenders from state to local jurisdiction. Key provisions relate to local custody for specified felony convictions, electronic monitoring options for jail inmates, local partnership plan, ability to contract for state prison beds, credits, and post-release supervision and realignment of certain adult parolees, among other key provisions.

AB 117, c. 39 (Assembly Committee on Budget): Criminal justice realignment. Makes statutory changes necessary to implement the Public Safety Realignment portions of the 2011-12 budget under AB 109 (see above) by making additional substantive and technical changes pertaining to the realignment of certain low level felony offenders, and adult parolees from state to local jurisdiction.

AB 144, c. 725 (Pontantino): Firearms, open carry. Makes it a misdemeanor punishable by up to six months in jail and a \$1,000 fine to openly carry an unloaded handgun on ones person or in a vehicle; makes it a misdemeanor punishable by up to one year in county jail and a \$1,000 fine to openly carry an unlawfully

possessed unloaded handgun and ammunition in public in an incorporated city; establishes specified exceptions to this prohibition; makes it a misdemeanor, punishable by up to six months in jail and a fine of up to \$1,000 for the driver of a vehicle to knowingly allow a person to bring an openly carried, unloaded handgun into the vehicle; and makes conforming and nonsubstantive technical changes to affected statutes.

AB 316, c. 317 (Carter): Grand theft, copper materials. Creates a fine for every person who steals, takes, or carries away copper materials of another, including, but not limited to, copper wire, copper cable, copper tubing, and copper piping, which are of a value exceeding \$950 is guilty of grand theft. Grand theft of copper shall be punishable by a fine not exceeding \$2,500, by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment, or by imprisonment in the state prison not exceeding 16 months, or two or three years and a fine not exceeding \$10,000.

AB 809, c. 745 (Feuer): Firearms, rifle sales records. Commencing January 1, 2014, (1) conforms requirements for reporting and record retention involving the transfer of long guns with those of handguns; (2) repeals the prohibition on peace officers, Department of Justice employees, and the Attorney General from retaining or compiling records of long gun transfers; (3) expands the requirement for a personal handgun importer to report certain information relative to bringing a handgun into the state, as specified; (4) expands the reporting requirements to apply to the importation of long guns; and (5) expands requirements for firearms dealers to keep a register or record of information pertaining to firearms transactions to include information pertaining to transactions involving all guns.

SB 26, c. 500 (Padilla): Prisons, wireless communication devices. (1) Provides that any inmate found to be in possession of a wireless communication device shall be subject to time credit denial or loss of up to 90 days, (2) facilitates the deployment of managed access technology that will prevent smuggled cell phones from sending or receiving communications within the secure

perimeter of a prison, and (3) provides that any person, employee or nonemployee who possesses cell phones with the intent to deliver, or delivers, to an inmate is guilty of a misdemeanor, punishable by six months in jail for each device and a fine of up to \$5,000 per device.

PENSIONS

AB 89, c. 390 (Hill): County employees' retirement. Allows San Mateo County to implement recently negotiated lower pension tiers for safety members represented by the Deputy Sheriffs Association. Deletes provisions that would have required all public retirement systems in California to adhere to the federal compensation limit under Internal Revenue Code (IRC) Section 401(a)(17) when calculating retirement benefits for members who first join the retirement system on or after January 1, 2012, and prohibited a public employer from making contributions to any qualified public retirement plan based on any portion of compensation that exceeds that amount.

AB 1247, c. 733 (Fletcher): Public retirement systems, reporting. Modifies the pension reform transparency reporting requirements that were enacted last year as part of the 2010-11 Budget package that requires the California Public Employees Retirement System to report its investment returns, amortization period, and discount rate using specific analytical guidelines every time contribution rates are adopted for all employers.

PUBLIC CONTRACTS

AB 551, c. 677 (Campos): Public contracts, prevailing wage requirements, violations. Increases penalties for failing to pay prevailing wages on public works projects and failing to provide payroll records in a timely manner, as well as creates a process for debarment for failing to follow the laws governing public works contracts.

SB 136, c. 698 (Yee): Public contracts, prevailing wages. Provides that specified

energy services contracts entered into pursuant to existing law are public works projects and subject to applicable prevailing wage laws.

SB 293, c. 700 (Padilla): Payment bonds; laborers. Adjusts the rights and time periods governing payment and claims for payment between owners, contractors and subcontractors by speeding the time period for contractors to pay subcontractors, reducing the time by which a subcontractor may make claims for nonpayment against a contractor on a public works project, exempting laborers from preliminary notification requirements and any deadline to enforce a claim for private works of improvement, and prohibiting a public entity from retaining more than 5% of a contract price until final completion and acceptance of a project.

SB 922, c. 431 (Steinberg): Public entities, project labor agreements. Requires that all project labor agreements (PLAs) incorporate specified provisions, and prohibits state funding assistance, after January 1, 2015, on public works projects of charter cities having ordinances prohibiting the use of PLAs.

PUBLIC RESOURCES

AB 42, c. 450 (Huffman): State parks. Authorizes the Department of Parks and Recreation to enter into operating agreements with non-profit entities to manage state parks or portions of state parks, operating limits agreements for the management of entire state parks, 20 in total, and states that they may only occur if the operating agreement prevents the closure of a park.

PUBLIC UTILITIES

AB 56, c. 519 (Hill): Gas corporations, rate recovery and expenditure, intrastate pipeline safety. Implements numerous safety-related measures regarding the operation of natural gas pipeline facilities regulated by the Public Utilities Commission.

AB 631, c. 480 (Ma): Public utilities, electric vehicle charging stations. Exempts from the definition of a public utility a facility that supplies electricity to the public only for use to charge light duty plug-in electric vehicles.

SB 216, c. 521 (Yee): Public utilities, intrastate natural gas pipeline safety. Authorizes the PUC to require automatic shut off or remote controlled valves on certain natural gas facilities, and unless prohibited by federal law, to require automatic shut off or remote controlled valves on intrastate natural gas transmission lines located in "high consequence areas" or that traverse an active seismic earthquake fault line.

REAL PROPERTY

SB 209, c. 121 (Corbett): Common interest developments, electric vehicle charging stations. Provides that a prohibition or restriction on the installation or use of an electrical vehicle charging station in any of the governing documents of a common interest development is void and unenforceable.

SB 426, c. 128 (Calderon): Tenancy, eviction, notices. Classifies any building or property used to willfully conduct unlawful dogfighting or cockfighting as a public nuisance, and allows for the eviction of any person who commits or maintains such a nuisance.

SB 563, c. 257 (Senate Committee on transportation and Housing): Common interest developments, meetings. Prohibits a common interest development (CID) board from conducting meetings via electronic transmission, including e-mail, except as specified, clarifies that executive sessions are meetings, reduces the notice period for CID board meetings held solely in executive session, and provides standards for teleconference CID board meetings.

SB 618, c. 596 (Wolk): Local government, solar-use easement. Authorizes a city or county and a landowner to simultaneously rescind a

Williamson Act contract on marginally productive or physically impaired lands and enter into a solar-use easement that restricts the use of land to photovoltaic solar facilities, as specified.

TAXATION

AB 15x, c. 3x (Hill): Property tax, newly constructed, exclusion, active solar energy system. Revises the definition of active solar energy systems and declares the legislative intent to extend the current exclusion from property tax reassessment for purchases of new active solar energy systems to active solar energy systems that are sold in sale-leaseback arrangements.

AB 28x, c. 7x (Blumenfield): BOE, administration, retailer engaged in business in CA (aka “California Amazon Tax”). Makes various changes to state laws to implement compliance-related mechanisms relating to existing taxes by expanding the statutory list of retailers that are considered to be “engaged in business in California” and required to collect use tax on sales of tangible personal property to California consumers.

AB 152, c. 503 (Fuentes): Food banks, grants, voluntary contributions, income tax credits. Provides a tax credit to California growers for the costs of fresh fruits or vegetables donated to California food banks. Establishes the State Emergency Food Assistance Program (SEFAP) within the Department of Social Services and allows for contributions to SEFAP for the purchase of California grown fresh fruits or vegetables. Require the Department of Public Health to apply for federal funds available for promoting healthy eating and preventing obesity.

AB 155, c. 313 (C. Calderon): State Board of Equalization, administration, retailer engaged in business in CA. Repeals and reenacts the statutory provisions specifying those retailers with a use tax collection duty (i.e., nexus); temporarily reverts California's use tax nexus laws to the way they read prior to being amended by AB 28x (see above). The Expanded

Nexus Law, in turn, would go into effect on either September 15, 2012, or January 1, 2013, depending on whether or not the federal government acts to authorize states to compel remote vendors to collect use taxes.

AB 188, c. 202 (Block): Property tax exemption, principal residence, veterans and their unmarried surviving spouses. Ensures that the disabled veterans' property tax exemption on a principal residence received by an unmarried surviving spouse will continue to be available to unmarried surviving spouses who are confined to a hospital or other care facility.

AB 703, c. 575 (Gordon): Property taxation, welfare exemption, nature resources and open-space lands. Extends the property tax exemption for specified land acquired by nonprofit organizations for natural resource preservation and open-space purposes until 2022.

AB 764, c. 465 (Swanson): Personal income taxes, voluntary contributions, Child Victims of Human Trafficking Fund. Authorizes the addition of the Child Victims of Human Trafficking Fund checkoff to the personal income tax upon the removal of another voluntary contribution fund from the form, or as soon as space is available.

AB 1369, c. 454 (Gatto): Personal and corporate income taxes, deductions, illegal activities. Disallows deductions for income derived by a taxpayer from specified illegal activities. Expands existing law by additionally denying deductions for expenses, including deductions for costs of goods sold, attributable to the taxpayer's gross income directly derived from certain criminal profiteering activities. Describes the criminal profiteering activities to include any act or omission punishable under the "California Control of Profits of Organized Crime Act" of Penal Code Section 186.2, dealing with a controlled substance enumerated in the Health and Safety Code, and unlawful referrals (insurance fraud) specified in the Insurance Code.

SB 507, c. 708 (DeSaulnier): Property taxation, change in ownership statement.

Increases the penalty for new owners failing to file a Change in Ownership Statement upon request from the assessor or the Board of Equalization (BOE) from \$2,500 to \$5,000 for property eligible for the homeowners' exemption, and from \$5,000 to \$20,000 for property not eligible for the homeowners' ex-emption. Extends the deadline from 45 days to 90 days for new owners to file a change of ownership statement with either the assessor or BOE, and to comply with the request without penalty. Applies to statements law requires new owners file with assessors for locally-assessed property, or with BOE, which collects the statement when a legal entity changes ownership or control.

TRUSTS AND ESTATES

AB 332, c. 366 (Butler): Elder abuse.

1) Increases the fine for misdemeanor theft, embezzlement, forgery, or fraud, and identity theft and identity crimes against an elder or dependent adult when the value of the losses exceed \$950, from up to \$1,000 to \$2,500 (plus penalties/assessments. Penalties and assessments amount to 270% of the fine, plus a \$103 flat fee). 2) Creates a fine not to exceed \$10,000 (plus penalties/assessments) for felony theft, embezzlement, forgery, or fraud, identity theft and identity crimes against an elder or dependent adult when the value of the loss exceeds \$950.

AB 458, c. 102 (Atkins): Guardianship.

Establishes venue rules for guardianship cases when a guardianship proceeding is filed in one county and a custody or visitation proceeding has already been filed in one or more other counties. Creates a presumption that venue is proper in the county where the guardianship petition is filed if the proposed guardian and child have resided in that county for at least six months prior to the commencement of the guardianship proceeding. Allows the courts to exercise discretion if it is in the best interest of the child to retain jurisdiction in the county where the initial custody or visitation proceeding was filed.

AB 1305, c. 117 (Huber): Decedents' estates: smaller estates.

(1) Increases the value of specified personal property that the successor to a decedent may collect without letters of administration or waiting for probate of a will from \$100,000 to \$150,000; (2) increases the value of an item of real property that a person may receive as successor to a decedent by using an affidavit procedure, from \$20,000 to \$50,000; (3) increases the value of a small estate from \$100,000 to \$150,000, where a person may petition the court to determine succession to property; (4) increases from \$5,000 to \$15,000 the amount of salary or other compensation to be excluded from the determination of the value of the decedent's estate; and (5) increases from \$5,000 to \$15,000 the amount of salary or compensation owed the decedent that a surviving spouse may collect by affidavit.

AB 1288, c. 370 (Gordon): Public guardians and conservators, authority, property held in trust.

Authorizes a public guardian or conservator, if he/she intends to apply for appointment as the guardian or conservator of a person, to restrain any person from transferring, encumbering, or disposing of any real or personal property of the person held in a trust, as specified. Also increases the time (from 15 to 30 days) in which the public guardian or conservator can restrain an individual's property.

AB 1293, c. 371 (Blumenfield): Elder abuse, theft or embezzlement, restitution.

Allows the seizing and preservation of assets of a criminal defendant charged with felony elder or dependent adult financial abuse.

SB 33, c. 372 (Simitian): Elder and dependent adult abuse.

Deletes the January 1, 2013, sunset date on the Elder and Dependent Adult Financial Abuse Reporting Act, originally enacted in 2005.

VEHICLES

AB 353, c. 653 (Cedillo): Vehicles, checkpoints. Requires the driver of a motor vehicle to stop and submit to a sobriety checkpoint inspection conducted by a law enforcement agency when signs and displays are posted requiring that stop. Notwithstanding other provisions of law, requires that a peace officer or any other authorized person not cause the impoundment of a vehicle at a sobriety checkpoint, established pursuant to these provisions or any other law, if the driver's only offense is, among other offenses, the failure to hold a valid driver's license. Requires, during the conduct of a sobriety checkpoint, a law enforcement officer to make a reasonable attempt to identify the registered owner of the vehicle in order to release the vehicle to the registered owner if he/she is a licensed driver or to a licensed driver authorized by the registered owner. Requires that if a notice to appear is issued, the name and driver's license number of the licensed driver to whom the vehicle was released be listed on the officer's copy of the notice to appear issued to the unlicensed driver and requires if a vehicle cannot be released, that the vehicle be removed, as specified.

SB 89, c. 35 (Senate Committee on Budget and Fiscal Review): Vehicles, vehicle license fee and registration fee. Recalculates the cost shares for Department of Motor Vehicles (DMV) administration funded from different fees and taxes collected on vehicles, and additionally directs existing local government revenue from the vehicle license fee (VLF) to support local public safety realignment. For DMV, the administrative costs paid by the VLF tax will be reduced, and the administrative costs paid from vehicle registration fees will be increased. As a result, the amount of VLF directed to local governments will increase by \$300 million to support public safety realignment. Vehicle registration fees will be increased by \$12 per vehicle to cover the new cost share from registration fees. Shifted local VLF funds will provide another \$153 million for public safety realignment - for a total of \$453 million.

VETERANS

SB 805, c. 246 (Senate Committee on Veterans Affairs): Sales and use taxes, consumers, veterans, itinerant vendors. Extends the January 1, 2012 sunset to January 1, 2022, so that qualified itinerant veteran vendors would remain consumers indefinitely with respect to tangible personal property they sell for \$100 or less under the specified conditions.

WATER

AB 359, c. 572 (Huffman): Groundwater management plans. Places additional requirements on local water agencies that opt to develop groundwater management plans, and requires the Department of Water Resources to make related information available on the internet.

WELFARE AND INSTITUTIONS

AB 6, c. 501 (Fuentes): CalWORKs and CalFresh. Streamlines a number of issues related to the administration of CalFresh (formerly known as the Food Stamp Program) and California Work Opportunity and Responsibility to Kids program (CalWORKs) and improves nutritional outcomes as follows: 1) Requires counties to convert from a quarterly to a semi-annual reporting system for CalWORKs and CalFresh no later than October 1, 2013, as specified; 2) Eliminates the Statewide Finger Imaging System for CalFresh participants; 3) Requires the Department of Social Services and the Department of Community Services and Development to design, implement and maintain a "Heat and Eat" program by January 1, 2013, as specified.

SB 335, c. 286 (Hernandez): Medi-Cal, hospitals, quality assurance fee. For the period from July 1, 2011, through December 31, 2013, enacts a Medi-Cal hospital provider quality assurance fee, provides supplemental payments to private hospitals in the Medi-Cal Program, provides for grants to public hospitals, funds for children's health care coverage and for

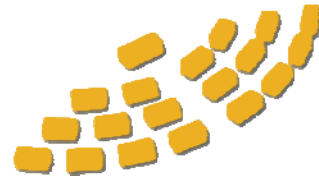
supplemental payments to hospitals for services provided through the Low Income Health Program Medicaid Expansion.

WORKERS COMPENSATION

AB 878, c. 686 (Berryhill): Contractors, workers' compensation insurance. Requires a workers compensation insurer to report to the Contractors State License Board when the insurer cancels the insurance policy of a licensed contractor after the insurer has conducted an audit of the contractor, the contractor has made a material misrepresentation that results in financial harm to the insurer, and no reimbursement has been paid by the contractor to the insurer. Also provides that willful or deliberate disregard and violation of workers' compensation insurance laws by a contractor constitutes a cause for disciplinary action by the Registrar of Contractors against the licensee.

SB 684, c. 566 (Corbett): Workers' compensation insurance, dispute resolution, arbitration clauses. Requires an insurer that intends to use a dispute resolution or arbitration agreement to resolve disputes arising in California out of a workers' compensation insurance policy or endorsement issued to a California employer, as defined, to disclose to the employer, contemporaneously with any written quote that offers to provide insurance coverage, that choice of law and choice of venue or forum may be a jurisdiction other than California and that these terms are negotiable between the insurer and the employer. Requires that the employer sign the disclosure, as evidence of receipt, when the employer accepts the offer of coverage. Authorizes the dispute resolution or arbitration agreement to be negotiated before any dispute arises. Applies to workers' compensation policies issued or renewed on or after July 1, 2012.

**INDEX OF
BILLS**



**ASSEMBLY
BILLS**
BILL PAGE

AB 6 16
 AB 15x 14
 AB 22 8
 AB 26x 11
 AB 27x 11
 AB 28x 14
 AB 36 7
 AB 42 13
 AB 56 13
 AB 89 12
 AB 109 11
 AB 117 11
 AB 130 7
 AB 131 7
 AB 141 8
 AB 144 11
 AB 151 6
 AB 152 14
 AB 155 14
 AB 173 7
 AB 183 2
 AB 188 14
 AB 240 8
 AB 243 8
 AB 291 4
 AB 315 8
 AB 316 12
 AB 332 15
 AB 341 5
 AB 353 16
 AB 358 5
 AB 359 16
 AB 376 6
 AB 378 9
 AB 458 15
 AB 459 4
 AB 469 9
 AB 486 6

BILL PAGE

AB 506 11
 AB 551 12
 AB 554 4
 AB 592 9
 AB 604 6
 AB 631 13
 AB 687 5
 AB 703 14
 AB 764 14
 AB 793 8
 AB 809 12
 AB 853 6
 AB 878 17
 AB 887 2
 AB 1067 2
 AB 1219 2
 AB 1236 9
 AB 1247 12
 AB 1288 15
 AB 1293 15
 AB 1305 15
 AB 1319 6
 AB 1330 4
 AB 1349 65
 AB 1369 14
 AB 1396 10
 AB 1403 3

**SENATE
BILLS**
BILL PAGE

SB 2x 5
 SB 26 12
 SB 33 15
 SB 78 3
 SB 89 16
 SB 126 10
 SB 136 12
 SB 161 4
 SB 202 4
 SB 209 13
 SB 216 13
 SB 221 3
 SB 222 7
 SB 293 13
 SB 303 7
 SB 332 2
 SB 335 16
 SB 384 3
 SB 397 4
 SB 426 13
 SB 459 10
 SB 507 15
 SB 543 2
 SB 559 3
 SB 563 13
 SB 618 13
 SB 651 6
 SB 684 17
 SB 731 4
 SB 746 2
 SB 771 5
 SB 805 16
 SB 850 2
 SB 922 13
 SB 946 7