

PANE & PANE ASSOCIATES, INC.

September 17, 2008

MEMO TO: CBA Board of Directors and Members

FROM: Josh and Donna Pane
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RE: LEGISLATIVE UPDATE: 2007-08 Active Bills

The 2007-08 Legislative Session came to an uneventful end on Sunday, August 31st, leaving a number of bills on the Assembly and Senate Floor to die. Two meal plan bills are now officially dead: AB 1034 and AB 1711 which have been moved to the "dead bill" list dated September 17, 2008 and which is attached to the end of this summary. Also, a number of bills being followed by CBA were moved to this list in July after they failed to meet house of origin deadlines.

Also, note that AB 830 (Ma), which had been strongly opposed by CBA, was substantially amended on June 18th to take care of CBA's opposition and concerns. However, there were several more amended version of the bill which were shared with the CBA Board and Legislative Committee but did not alter substantially alter the June 18th version of the bill. The last amended version was August 18th were the author changed the bill from a crime to a misdemeanor and added that "the state", as well as a school district, is not liable for transportation services provided by an operator of a charter-party carrier.

As of today, the Governor has vowed to veto the budget just passed by the Legislature, which is a first for any Governor in the State. If he does, the Legislature says it will override his veto, thus setting into motion the possible veto of all of the 800 plus bills on his desk!

TOP 2 SELECTED BILLS

AB 830 (Ma) Vehicles: transportation of school pupils (A-8/18/08)

Sponsor: The Greater California Livery Association

Summary: This bill specifies that a parent may contract with a charter-party carrier that operates a vehicle carrying between 11 and 25 persons to or from school-related activities. This bill also requires the California Department of Education (CDE) to review and, if necessary, revise its training courses and requirements for classroom instruction and behind-the-wheel training to ensure that they appropriately address those vehicles that carry between 11 and 25 persons. Specifically, this bill: 1) Adds an exception from the definition of "school bus" for motor vehicles designed to carry between 11 and 25 persons being used to transport pupils to or from school-related activities according to the following conditions:
a) the vehicle is operated by a passenger charter-party carrier certified and licensed by the PUC that is not under a contractual agreement with a school or school district; and, b) the transportation does not duplicate transportation services contracted, arranged, or otherwise provided by the school or school district.

2) Specifies requirements for transporting pupils to or from school-related activities using vehicles it excepts from the

school bus definition. These requirements include: a) the driver must have in his or her immediate possession a valid driver's license for the appropriate class of vehicle to be driven endorsed for passenger transportation; b) the driver must have in his or her immediate possession a certificate to drive a school bus or student pupil activity bus (SPAB); c) the driver must have a signed parental authorization form for each pupil to be transported; d) the driver requires each pupil under the age of 21 to sign a statement indicating that he or she understands that he or she may not consume or carry alcohol in the vehicle. If alcohol is consumed by a minor in the vehicle, the driver is required to return the pupils to the point of origin for their ride; and, e) the vehicle used to transport pupils undergoes an annual safety inspection conducted by the CHP, for which CHP may charge a charter-party carrier a reasonable fee sufficient to cover the cost associated with the inspection.

3) Provides that a school, school district, or the state is not liable for transportation services provided by a charter-party carrier for which the school or school district did not contract, arrange, or otherwise provide.

4) Requires, on or before January 1, 2010, CDE to review and, if necessary, revise its training courses and requirements for classroom instruction and behind-the-wheel training to ensure that they appropriately address those vehicles that carry between 11 and 25 persons.

5) Makes it is a misdemeanor, if a charter-party carrier does not obtain a special driver's certificate and vehicle inspection for the transportation of pupils to or from school-related activities.

STATUS: Enrolled and to the Governor.

CBA Position: OPPOSE but June 18th amendments were deemed sufficient to "Remove CBA's Opposition" which was communicated to the Senate Transportation Committee.

AB 2578 (Lieu) Public Utilities Commission: procedures and remedies.

(A-8/20/08) Sponsor: PUC Staff: Sheri Pemberton

Summary: This bill enhances the ability of the California Public Utilities Commission (PUC) to collect fines and restitution from individuals who engaged in fraudulent activities that are regulated by PUC. The Senate amendments: 1) Sunsets the PUC's authority to levy a warrant special legal privileges on January 1, 2014; 2) Permits the PUC to require a performance bond to facilitate the collection of fines; 3) Presumes that a public utility that has gross annual revenues of more than \$100 million is able to pay potential penalties and fines that may be ordered by the PUC, and exempt those utilities from having the PUC determine their ability to pay; 4) Permits the PUC to enjoin the sale of the assets of a public utility, common carrier, household goods carrier, or charter-party carrier of passengers to satisfy unpaid fines and penalties; and 5) Authorizes the PUC to bring an action pursuant to the Uniform Fraudulent Transfer Act until January 1, 2014.

STATUS: Enrolled and to the Governor

CBA Position: Watch

OTHER 2007 and 2008 BILLS

AB 2560 (Lieu) Medium- and heavy-duty motor vehicles: air pollution.
(A-8/11/08) **Sponsor: Natural Gas Vehicle Coalition** **Staff: Sheri Pemberton**

Summary: Existing law requires, on or before December 31, 2008, the Department of General Services, in conjunction with the State Air Resources Board and the State Energy Resources Conservation and Development Commission, to amend the existing "Enhanced Efficiency Costing Methodology for Passenger Cars and Light-Duty Vehicles" to rank the environmental and energy benefits and costs of these motor vehicles for potential procurement by state and local governments pursuant to specified criteria. This bill would require, on or before December 31, 2010, that the above-described state agencies apply the same criteria established under this provision for passenger cars and light-duty vehicles to medium-duty and heavy-duty motor vehicles. The bill would exempt the department from complying with the criteria for potential procurement for medium-duty and heavy-duty motor vehicles. The bill would require the department, in carrying out the above requirements, to consider, to the extent feasible, the findings of the Low Carbon Fuel Standard, once adopted by the board.

STATUS: Enrolled and to the Governor.

AB 2922 (DeSaulnier) Air pollution: penalties. (A-6/26/08) **Sponsor: California Air Resources Board (CARB)**

Summary: Existing law declares that emissions of air pollutants from motor vehicles are the primary cause of air pollution in many parts of California, and that the state has the responsibility to establish procedures for compliance with standards that control and eliminate those air pollutants. Existing law requires the State Air Resources Board to prescribe maximum air pollution emission standards to be applied in inspecting motor vehicles. Existing law also requires a person who violates any order, rule, or regulation of the state board adopted pursuant to this authority to pay a civil penalty for deposit into the Air Pollution Control Fund, not to exceed \$500 per vehicle. This bill would set the maximum civil penalty for a violation of these provisions to be an amount not to exceed \$500 per vehicle, portable fuel container, spout, engine, or other unit subject to regulation under these provisions. Existing law requires the State Air Resources Board to adopt standards and regulations for motor vehicles and off-road or non-vehicle engine categories to control the emissions of air contaminants. This bill would require the state board to adopt standards for portable fuel containers and spouts. The bill would provide that this provision is declaratory of existing law.

STATUS: Enrolled and to the Governor.

SENATE BILLS

SB 1263 (Ashburn) Intercity rail services: feeder buses.

(A-6/19/08) **Sponsor: District Bill** **Staff: Ken Devore**

Summary: This bill, with respect to feeder bus service contracted by Amtrak, would add an additional exception to allow passengers to travel solely by bus between the community of Lebec in Kern County and the City of Santa Clarita if no private intercity bus company provides bus service on that route. The bill would authorize the department to amend its contract with Amtrak for that purpose. **This is what the Cox bill did last year and with amendments taken, CBA removed opposition. April 7th amendments further clarify that if bus**

service is restored in the area, this will cease or within 60 days notice to Amtrak.

STATUS: Signed by the Governor; Chapter 173 of 2008 Statutes.

SB 1661 (Kuehl) Unemployment compensation: family leave: good cause. (A-8/26/08) **Sponsor: author Staff: Jennifer Richard**

Summary: Under existing law, the family temporary disability insurance (FTDI) program provides up to 6 weeks of wage replacement benefits to workers who take time off work to care for a seriously ill family member, as defined, or to bond with a new child, on and after July 1, 2004. Existing law provides that an individual who leaves his or her work voluntarily or without good cause is disqualified from receiving unemployment benefits. Existing law further defines good cause for these purposes, and establishes procedures and presumptions for the administration of benefits. This bill would provide that an individual shall be deemed to have left his or her most recent work with good cause if the individual's discharge or quitting from an employer was the result of the individual taking a leave to bond with a minor child under the family temporary disability insurance program, and the individual is subsequently found eligible for benefits under that program.

STATUS: Enrolled and to the Governor.

SB 1760 (Perata) Energy: greenhouse gas emissions. (A-5/27/08)

Sponsor: author Staff: Kip Lipper

Summary: This bill would create the Climate Action Team (CAT), consisting of representatives from specified state agencies that would be responsible for coordinating the state's overall climate policy. The CAT, on or before January 1, 2010, and annually thereafter, would be required to prepare, adopt, and present to the Legislature, a strategic research, development, and demonstration plan (plan) that establishes priorities and identifies key expenditure categories for research, development, demonstration, and deployment funds to be expended by the state agencies represented on the CAT for the following fiscal year. The CAT, on or before January 1, 2010, and biennially thereafter, would be required to prepare and adopt a climate change impact adaptation and protection plan that includes specified information. The bill would require research, development, and demonstration funds that are administered by the Department of Transportation and are allocated for clean technology, environmental protection, and public interest energy research to be expended consistent with the plan.

STATUS: Enrolled and to the Governor.

NOTE: Unless otherwise noted, no position was taken on the above bills by CBA.

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**CBA "DEAD" BILL LIST FOR 2008
September 17, 2008**

AB 1034 (Keene) Employment: meal periods. (A-09/07/07)

Summary: Existing law requires an employer to provide an employee who works more than 5 hours per day with a meal period of not less

than 30 minutes, unless the employee's total daily work period is not more than 6 hours, in which case it may be waived by mutual agreement. An employee working more than 10 hours per day must be provided with a 2nd meal period of not less than 30 minutes, unless the total daily work period does not exceed 12 hours, in which case the 2nd meal period may be waived by mutual agreement only if the first meal period was not waived. This bill would require that the first meal period be commenced no later than the completion of the employee's 6th hour of work. Under the bill, if an employer and employee have entered into a valid collective bargaining agreement, which includes terms relating to the provision of meal periods, that agreement would prevail over the statutory requirements.

CBA Position: Watch

STATUS: Held in Senate Labor & Industrial Relations - dead.

AB 1610 (Nunez) Fuels: refineries. (A-09/06/07)

Summary: Existing law establishes the State Energy Resources Conservation and Development Commission (Energy Commission) in the Resources Agency, and specifies the powers and duties of the commission with respect to energy resources in the state. Existing law requires major oil producers, refiners, major marketers, major oil transporters, and major oil stores to supply to the commission weekly, monthly, and annually certain designated information regarding petroleum supplies. This bill would require an owner or operator of a refinery in the state to submit information to the Energy Commission relating to the capacity and operational status of the refinery.

CBA Position: Support

STATUS: Failed passage on Senate Floor on 19-20 vote - dead.

AB 1711 (Levine) Employment: wages and hours. (A-6/19/08) Sponsor: California Labor Federation

Summary: This bill would require that the first of these meal periods be completed before the end of the 6th hour of work, but not commence before the beginning of the 3rd hour, and would require that any waiver by the parties be in writing to be valid. The bill also would permit an employer and employee to agree to on-duty meal periods, as specified, and subject to certain specified conditions. The bill would further provide that these provisions relating to meal periods would not apply to any employee covered by a collective bargaining agreement that expressly provides for employee meal periods, among other specified working conditions. The bill would also provide that where a collective bargaining agreement exists, any authorized individual waivers of an employer must be exercised by the employee's authorized representative for collective bargaining purposes. Additionally, the bill would require all private and public employers to pay their employees an additional hour of compensation for each split shift day worked, as defined.

CBA Position: Watch

STATUS: Held in Senate Labor & Industrial Relations - dead.

AB 1851 (Nava) Greenhouse gas emissions: sale of voluntary offsets. (A-8/22/08) Sponsor: author Staff: Ben Turner

Summary: This bill would make it unlawful for a person, as defined, to represent in an advertisement or in any other sales or promotional materials made available to the public for the sale of a greenhouse gas credit or emission reduction, that the credit or

reduction reduces greenhouse gas emissions unless certain requirements are met. The bill would also require a person that represents in an advertisement or in any sales or promotional materials made available to the public for the sale of a greenhouse gas credit or emission reduction, that the credit or emission reduction results in a reduction of greenhouse gases to maintain in written form and make available to any member of the public who requests it certain information and documentation supporting the validity of that representation. A violation of these provisions would be punishable by a specified civil penalty and would create a civil cause of action. Reasonable attorney fees and costs would be available for any such action brought. These requirements would become operative on January 1, 2010, and would become inoperative if the Federal Trade Commission adopts binding and enforceable trade rules or regulations for claims or representations for greenhouse gas emission reduction credits or reductions to protect consumers.

CBA Position: Watch

STATUS: Held on Senate Floor Inactive File - dead.

AB 2488 (Houston) Income and corporation taxes: deductions:

depreciation. (I-2/21/08) Sponsor: author Staff: Keith Ochwat

Summary: This bill would, for taxable years beginning on or after January 1, 2008, and before January 1, 2013, allow a taxpayer to take a deduction for depreciation, with respect to specified qualified capital expenditures that reduce greenhouse gas emissions and specified qualified capital investments for renewable energy, over a 3-year period, as provided. This bill contains other related provisions.

STATUS: Held in Assembly Revenue & Taxation; "dead".

AB 2530 (Duvall) Private employment: meal periods: transportation workers. (I-2/21/08) Sponsor: CTA Staff: Adam Wood

Summary: Existing law requires employers to provide meal periods to employees during work periods of specified duration. This bill would specify that the meal period requirement does not apply to certain employees in the transportation industry.

STATUS: Failed passage in Assembly Labor & Employment; "dead".

AB 2538 (Ruskin) Greenhouse gas emissions: consumer product labeling. (A-4/8/08) Sponsor: Conservation Strategies Group Staff: Erin Shaw

Summary: The California Global Warming Solutions Act of 2006 designates the State Air Resources Board as the state agency charged with monitoring and regulating sources of emissions of greenhouse gases that cause global warming in order to reduce emissions of greenhouse gases. This bill would enact the Carbon Labeling Act of 2008. The act would require the state board to develop and implement a program for the voluntary assessment, verification, and standardized labeling of the carbon footprint, as defined, of selected consumer products sold in this state and would authorize assessment of an application fee to pay the costs of the program

STATUS: Held on Assembly Appropriations Suspense file; "dead".

AB 2625 (Strickland) Bio-diesel. (A-4/7/08) Sponsor: Neste Oil Staff: Joel Angeles

Summary: Existing law generally imposes restrictions upon the sale of nonconforming fuel products. Existing law exempts developmental engine fuels authorized by the Department of Food and

Agriculture from these restrictions, as specified. This bill would define "bio-diesel" and "renewable diesel" for these purposes.

STATUS: Assembly Transportation; "dead".

AB 2645 (Nunez) Air pollution: alternative fuels and vehicle technologies: funding programs. (I-2/22/08) Sponsor: author

Staff: Jennifer Galehouse

Summary: Existing law creates the Alternative and Renewable Fuel and Vehicle Technology Program that is administered by the State Energy Resources Conservation and Development Commission to provide, upon appropriation by the Legislature, grants, loans, loan guarantees, revolving loans, and other appropriate measures, to specified entities to develop and deploy innovative technologies that transform California's fuel and vehicle types to help attain the state's climate change policies. The commission is required to provide preference to specified projects based on specified criteria, including the use of alternative fuel with a fuel blend of at least 20% or higher. The fuel blend criteria do not apply to alternative and renewable fuel infrastructure, fueling stations, and equipment. This bill would, instead, provide that the fuel blend criteria do not apply only to renewable diesel infrastructure, fueling stations, and equipment. The bill would, in addition, provide specified life cycle and multimedia analyses as eligible projects under the program. This bill contains other related provisions and other existing laws.

STATUS: Held in Senate Transportation and Housing - dead.

AB 2985 (Duvall) Household goods and passenger carriers.

(A-4/1/08) Sponsor: PUC Staff: Adam Wood

Summary: The Interstate and Foreign Motor Carriers of Household Goods and Passengers Act make a household goods carrier, as defined, subject to regulation by the commission. This bill would repeal the act.

Charter-party carriers of passengers are subject to the jurisdiction and control of the commission under the Passenger Charter-Party Carriers' Act. This bill would make inapplicable any provision of the act relating to charter bus transportation that conflicts with the federal Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users. The bill would revise the definition of charter bus transportation for purposes of the act. The bill would make a technical change by deleting an obsolete provision of law. The act requires a charter-party carrier of passengers to obtain from the commission a certificate that public convenience and necessity require the operation or a permit issued by the commission, and to operate within the state on a prearranged basis, as defined. The act provides that a permit or certificate, or renewal of a permit or certificate, is effective for 3 years, unless suspended or revoked. The act requires that every application for a certificate or permit, or renewal of a certificate or permit, be accompanied by the appropriate fee as specified. This bill would delete provisions pertaining to the renewal of a certificate or permit and the provision limiting the effective period of a permit or certificate to 3 years, and would increase the fee to accompany an application for a certificate or permit. **THE LANGUAGE RELATING TO 25 PASSENGER VEHICLES WAS REMOVED FROM THE BILL WITH THE APRIL 1ST AMENDMENTS**

This bill would also prohibit a household goods carrier, as defined, or a motor carrier engaged in the transportation of passengers for

compensation, engaged solely in interstate or foreign transportation, from operating on any public highway in the state without first having registered the operation with the department or the carrier's base registration state, if other than California, pursuant to the Federal Unified Carrier Registration Act of 2005.

STATUS: Held in Assembly Rules; "dead".

AB 3001 (Hancock) California Voluntary Carbon Offset Commission.

(A-4/3/08) **Sponsor: author Staff: Rebecca Baumann**

Summary: Under existing law, the State Energy Resources Conservation and Development Commission (Energy Commission), the State Air Resources Board, and the California Climate Action Registry all have responsibilities with respect to the control of emissions of greenhouse gases, and the Secretary for Environmental Protection is required to coordinate emission reductions of greenhouse gases and climate change activity in state government. Under the Warren-Alquist State Energy Resources Conservation and Development Act, the Energy Commission develops policy recommendations for public interest energy strategies, including statewide reductions in emissions of greenhouse gases and addressing the impacts of climate change on California. This bill would create the Voluntary Carbon Offset Program Fund for voluntary contributions for the mitigation of climate change impacts. The moneys in the fund would be available, upon appropriation, for specified projects. The bill would require that moneys from the fund be directed to the California Conservation Corps and local conservation corps for specified projects.

STATUS: Held in Assembly Appropriations Suspense File; "dead".

AB 3039 (Benoit) High-occupancy vehicle lanes. (I-2/22/08) Sponsor: author Staff: Kyle Packham

Summary: Existing law authorizes the Department of Transportation to construct exclusive or preferential lanes for buses only or for buses and other high-occupancy vehicles. This bill would require the department, at the request of a county transportation commission or a regional transportation-planning agency, to modify existing exclusive or preferential lanes that are for buses and other high-occupancy vehicles within the respective jurisdiction of the requesting entity to provide continuous access to buses and other high-occupancy vehicles. The bill would encourage the department to move these modifications in conjunction with planned restriping projects. According to author's office, this applies to all busses and is attempting to change the restricted carpool lane entrance/exit in Southern California to be like in Northern California. **We have conveyed the Board's concern that this change could create a dangerous situation in Southern California. We have been informed that the author will not move this bill at this time.**

STATUS: Held in Assembly Transportation; "dead"

SB 445 (Torlakson) Greenhouse gas mitigation fee. (A-5/12/08)

Summary: This bill would authorize specified regional transportation agencies to impose a greenhouse gas mitigation fee. The fee would either be a registration fee on vehicles subject to registration within the jurisdiction of the agency implementing the fee, or a fee on motor vehicle fuel, not to exceed \$0.10 per gallon, that is sold within the agency's jurisdiction. The bill would require the fee to be implemented pursuant to a plan, which would be required to contain an expenditure plan describing specified greenhouse gas mitigation projects and programs to be funded from fee revenues. The

fee would be subject to majority approval of the governing board of the implementing agency and voter approval of a ballot measure containing the expenditure plan and the proposed fee in the jurisdiction where the fee is to be imposed.

CBA Position: Needs to be reviewed as bill was just amended

STATUS: Held in Assembly Transportation - dead.

SB 716 (Perata) Transit operators. (A-07/11/07)

Summary: Existing law, the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, approved by the voters as Proposition 1B in the November 2006 general election, establishes the Highway Safety, Traffic Reduction, Air Quality, and Port Security Fund of 2006 in the State Treasury. \$3.6 billion of the moneys in the fund are required to be deposited in the Public Transportation Modernization, Improvement, and Service Enhancement Account to be made available, upon appropriation by the Legislature, to transportation agencies for transit capital projects pursuant to a specified formula. This bill would specify the requirements for an eligible project sponsor, as defined, to receive an allocation of funds appropriated from the account. The bill would require the California Transportation Commission and the Controller to administer these provisions.

CBA Position: Watch

STATUS: Held in Assembly Appropriations - dead.

SB 1539 (Calderon) Meal periods. (A-4/15/08) **Sponsor: State Chamber of Commerce and other businesses author Staff: Adam Gray**

Summary: Existing law requires an employer to provide an employee who works more than 5 hours in a workday with a meal period of not less than 30 minutes, unless the employee works no more than 6 hours in a workday and the meal period is waived by mutual consent. An employer also is required to provide an employee who works more than 10 hours in a workday with a second meal period of not less than 30 minutes, unless the employee works no more than 12 hours, the first meal period was not waived, and the second meal period is waived by mutual consent. The Industrial Welfare Commission (IWC) of the Department of Industrial Relations adopts and amends wage orders that, among other things, specify how meal periods are required to be provided to covered employees within various industries, including the procedures for providing employees with on-duty meal periods. This bill would declare the intent of the Legislature to enact legislation to address issues related to meal periods in employment.

STATUS: Withdrawn from Senate Appropriations to Senate Rules; "dead"

- END -