

PANE & PANE ASSOCIATES, INC.

January 13, 2010

MEMO TO: California Bus Association

**FROM: Josh Pane and Donna Wetterer Pane
pane@cwo.com (916) 835-3036 or (916) 447-8982**

RE: Legislative Update: Week of January 11, 2010

HAPPY NEW YEAR! After a very contentious decade, we ring in the year 2010. What will the near year bring us in the legislative arena? The Legislature returned on January 4th to continue working on legislation begun in 2009. Remember the “two year bills”? Following this report, we’ve listed the two-year bills that are still active that we were following for the CBA. Note, that all of these two-year bills must pass out of their House of Origin by January 31st or they will be deemed “dead” and removed from future lists. Refer to the final Legislative Update of October 12, 2009 to see all the bills that were signed and vetoed that we were following for the CBA.

The deadline for new bill introductions for the 2010 session is February 19th so we probably won’t see much in the way of new bills until closer to that date. As they are introduced, they will be added to the list below.

NEW SPEAKER. Somewhat out of nowhere, Assembly Demo Caucus Chair John Perez became the leading contender to replace Karen Bass as the new Speaker of the Assembly. After a bruising battle that has left the Latino Caucus divided, Perez was ultimately elected Speaker elect in mid December over Assembly Member Kevin De Leon and was official elected on January 7th. New Assembly Speaker Perez, age 40, was just elected last year, so he hasn’t established much of a record yet in the Legislature. He is a former union organizer who grew up in the working-class neighborhoods in northeast Los Angeles, where he attended public schools. Perez is the Assembly’s first openly gay leader and the cousin of Los Angeles Mayor and former Assembly Speaker Antonio Villaraigosa. Perez started his career as an organizer for the Painters union before moving on to become a political director for the California Labor Federation and, most recently, a United Food and Commercial Workers local. He’s also been active in the environmental movement, serving as a board member for the California League of Conservation Voters, and has worked for gay rights, serving both President Clinton and President George W. Bush on the Presidential Advisory Council on HIV/AIDS.

BUDGET MADNESS CONTINUES. California continues to face enormous challenges in 2010, as the new Speaker will find. Governor Schwarzenegger will officially set his final State of the State address on January 6th and his final budget proposal of his tenure on January 8th. The Governor wants long term changes in the state’s tax structure to end these wild budget swings and he hopes to create a stronger rainy-day reserve, something he has failed to do in the past. These two events will kick off months of deliberations over resolving the state’s projected \$20.7 billion deficit that it faces over the next 18 months. This is like a broken record but legislators spend much of 2009 cobbling together a way to close a \$60 billion budget deficit knowing that it wouldn’t be enough to fend off a new one in 2010. Sure enough, it wasn’t and the \$20.7 billion

figure includes a \$6.3 billion hole in the current fiscal year ending this June 30th and another \$14.4 billion for the next fiscal year beginning July 1st. Legislators and the Governor used up all the tricks and “one time” solutions so some very difficult decisions will be forthcoming. And if all of this news isn’t bad enough, the Legislative Analyst’s office predicts that the state will continue to run close to \$20 billion plus deficits through at least the 2014-16 fiscal year. In a recent television interview on January 3rd, Senate President Pro Tem made the following comment regarding a question about whether the Legislature would approve the appointment of Senator Abel Maldonado as Lt. Governor: “We must pass a mid year budget plan soon and we need Abel Maldonado there for that vote”. So the budget once again remains front and center in the Legislative arena.

2010 PRIMARY AND GENERAL ELECTION LOOMS. On top of trying to find a long-term solution to the state’s budget woes, it is an election year with many changes in store from the top on down. Candidates for Governor include: Jerry Brown on the Democratic side. Meg Whitman, Steve Poizner and Tom Campbell on the Republican side. These are a given but on the rest of the ballot for statewide office, things are still fluid. We’ll have a better idea in another month or so just who is running for what. Also be prepared to vote on numerous ballot propositions on both the June and the November ballots. Right now there are 45 initiatives in circulation and three have qualified for the 2010 June ballot, including one that would create open primaries in 2012 allowing voters to cast a ballot for any candidate regardless of political affiliation. Some of the 45 initiatives in circulation show the dissatisfaction over the status quo by proposing to convert the legislature to a part-time body and another would shorten the legislative session and cut the salaries of legislators by at least 50 percent. Others propose changing the 2/3-vote requirement to pass a budget and another calls for a constitutional convention. Most won’t qualify but it remains to be seen just what will show up.

2009 Legislation Carried Over Into 2010

AB 118 (Logue-R) California Global Warming Solutions Act of 2006

(A-1/4/10) Sponsor: Author Staff: Cliff Wagner (916) 319-2003

Summary: This bill would suspend the act until the state unemployment rate is 5.5% or lower for four consecutive calendar quarters. The bill would require the re-suspension of the act whenever the state unemployment rate rises above 5.5% for four consecutive calendar quarters.

STATUS: Failed passage in Assembly Natural Resources on January 11th. NOTE:

Assemblyman Logue is moving forward with an initiative to do what this bill would have accomplished together with Congressman McClintock. It will be titled California Jobs Initiative and was recently backed by Republican candidate for Governor Steve Poizner.

AB 414 (Galgiani-D) Carl Moyer Memorial Air Quality Standards Attainment Program: heavy-duty fleet modernization projects (I-2/23/09) Sponsor: author Staff: Jim Collin (916) 319-2017

Summary: The bill would require the state board to develop and implement a trade-down program that provides assistance to owners of high-use, newer model, heavy-duty fleet vehicles to convert those vehicles for lower use, commercial operations in a manner that reduces emissions of oxides of nitrogen and particulate matter. The bill would provide that the trade-down program would be eligible for funding under the Carl Moyer program as an eligible heavy-duty fleet modernization project if it meets a specified criterion.

STATUS: Held in Assembly Transportation. Must pass House of Origin by January 31st.

AB 569 (Emmerson-R) meal periods: transportation industry (A-9/11/09) Sponsor: UPS Staff: Teresa Trujillo (916) 319-2063

Summary: This bill would exempt from these provisions employees in a construction occupation, commercial drivers in the transportation industry, and employees in the security services industry employed as security officers if those employees are covered by a valid collective bargaining agreement containing specified terms, including meal period provisions. It would specify that its provisions do not affect the requirements for meal periods for certain other employees or employers.

STATUS: Senate Rules for committee assignment.

AB 744 (Torrico-D) Transportation: toll lanes: Express Lane Network (A-7/15/09) Sponsor: Metropolitan Transportation Commission (MTC) Staff: Ryan Spencer (916) 319-2020

Summary: This bill would authorize the Bay Area Toll Authority to acquire, construct, administer, and operate a Bay Area Express Lane Network on state highways within the 9 Bay Area counties pursuant to a development plan recommended by the Bay Area Express Lane Network Project Oversight Committee, which the authority would be required to establish. The bill would authorize the authority to establish the fee structure for use of the express lanes and would require a public hearing in that regard. The bill would authorize the authority to determine the types of vehicles that may use the lanes. The bill would provide for agreements between the authority and the Department of Transportation and the Department of the California Highway Patrol. The bill would require revenues from the express lanes to be deposited in the Bay Area Express Lane Network Account, which the authority would be required to create. The bill would authorize the authority to issue revenue bonds for the express lane program. The bill would specify the use of revenues in the account, including the net revenues remaining after expenses and obligations, including revenue bond obligations, for the express lane program are satisfied. The bill would provide for certain payments by the authority to the Department of Transportation and the Department of the California Highway Patrol relative to their responsibilities with regard to the express lane program, and would continuously appropriate the amount of those payments to those agencies for those purposes. The bill would require the Sunol Smart Carpool Lane Joint Powers Authority, the Alameda County Congestion Management Agency, and the Santa Clara Valley Transportation Authority to enter into agreements with the Bay Area Toll Authority by January 1, 2011, to provide for the transfer of their rights and obligations relative to HOT lane projects to the Bay Area Toll Authority.

STATUS: Held on Senate Appropriations Suspense File.

AB 922 (Miller-R) Diesel fuel tax exemption: bio-diesel (I-2/26/00 Sponsor: author & Biodiesel Alliance Staff Evan Oneto (916) 319-2071

Summary: This bill exempts the imposition of the Diesel Fuel Tax after July 1, 2009 through June 30, 2014 on biomass-based diesel fuel produced with California feedstock (used cooking oil; trap grease; yellow grease; animal fat; brown grease; plant or fungal crop; algae and FOG which means fat, oil and grease).

STATUS: Held in Assembly Rev & Tax. Must pass House of Origin by January 31st.

AB 1000 (Ma-D) Employment: Paid sick days (I-2/27/09) Sponsor: CA Labor Federation Staff: Catalina Hayes-Bautista (916) 319-2012

Summary: This bill would provide that an employee who works in California for 7 or more days in a calendar year is entitled to paid sick days, as defined, which shall be accrued at a rate of no less than one hour for every 30 hours worked. An employee would be entitled to use accrued

sick days beginning on the 90th calendar day of employment. The bill would require employers to provide paid sick days, upon the request of the employee, for diagnosis, care, or treatment of health conditions of the employee or an employee's family member, or for leave related to domestic violence or sexual assault. An employer would be prohibited from discriminating or retaliating against an employee who requests paid sick days. The bill would require employers to satisfy specified posting and notice and recordkeeping requirements. The bill would also make conforming changes. This bill would require the Labor Commissioner to administer and enforce these requirements, including the promulgation of regulations, investigation, mitigation, and relief of violations of these requirements. This bill would authorize the Labor Commissioner to impose specified administrative fines for violations and would authorize an aggrieved person, the commissioner, the Attorney General, or an entity a member of which is aggrieved to bring an action to recover specified civil penalties against an offender, as well as attorney's fees, costs, and interest. The bill would specify that it does not apply to employees covered by a collective bargaining agreement that provides for paid sick days, nor does it lessen any other obligations of the employer to employees. This bill would further specify that it does not apply to employees in the construction industry covered by a collective bargaining agreement if the agreement expressly waives the requirements of this article in clear and unambiguous terms.

STATUS: Held on Assembly Appropriations Suspense File. Must pass House of Origin by Jan. 31st.

AB 1421 (Swanson-D) Employment: work hours (A-6/1/09) Sponsor:

Author Staff: hasn't been assigned

Summary: This bill would provide that time spent in transit on a facility-provided conveyance from a remote employee parking location to and from the place at which an employee's presence is required by the employer shall be considered to be part of a workday if the time spent in transit one-way exceeds 12 minutes, the employee is wearing a uniform or insignia while in transit required by the employer, and the employee is employed at an amusement park, sports venue, or entertainment venue, or by a private service contractor at an airport, as these places of employment are defined by the North American Industry Classification System or its predecessor.

STATUS: Assembly Floor Inactive File. Must pass House of Origin by January 31st.

SB 287 (Calderon-D) Meal periods (I-2/24/09) Sponsor: author

Staff: Rocky Rushing (916) 651-4030

Summary: This bill would revise the statutory requirements for the provision of meal periods to specify that the requirements apply only to employees subject to the meal period provisions of an order of the IWC. The statutory requirements for providing the meal periods would be revised to specify that a meal period based on working more than 5 hours in a workday is required to be provided before the employee completes 6 hours of work, unless the existing waiver provision is invoked. The waiver provision for the 2nd meal period would be changed to provide an exception for different provisions within IWC wage orders in effect as of January 1, 2009, and to permit the employer and employee to agree to waive either the first or the 2nd meal period if the employee otherwise is entitled to 2 meal periods. The bill also would specify conditions under which on-duty meal periods are permitted rather than meal periods in which the employee is relieved of all duty. The meal period provisions of a valid collective bargaining agreement would be required to be implemented for covered employees rather than the statutory requirements. The bill would require that orders of the IWC be interpreted in a manner consistent with this section, and would require the Department of Industrial Relations to amend and republish specified IWC wage orders to be consistent with the revised meal period requirements.

STATUS: Senate Labor & Industrial Relations. Must pass House of Origin by January 31st.

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