



## 2021-2022 Legislative Session – Key Developments as of March 31, 2021

Analysis by Jim Lindburg, Legislative Consultant

The 2021-2022 Legislature convened in January, and could prove to be a truly historic legislative session. Policy committee hearings are now underway. The COVID-19 pandemic has illuminated the fault lines of poverty and the inequities of systemic racism. Addressing the disparate health and economic impacts of the COVID 19 pandemic on people of color and the undocumented as well as the systemic racism that underlie the justice system are prevalent themes in the current session.

Some background is in order. (And of course, everyone is waiting to see whether an attempt to recall Gov. Newsom will qualify for the ballot and how that might shape the political dynamics in Sacramento, where Democrats hold supermajorities in both houses.) First, I want to take note of two historical developments.

In January, Gov. Newsom appointed Assembly Member Shirley Weber to become California's Secretary of State, the first African-American woman to hold that office. Earlier this month Gov. Newsom nominated Assembly Member Rob Bonta to become California's Attorney General (the first Filipino-American to serve in that role), and he is expected to be confirmed by the Senate and the Assembly. Both Weber and Bonta have extensive track records for advancing social justice and tackling inequities in the justice system.

In the Assembly, there are 58 Democrats, 1 independent and 19 Republicans. Two seats are currently vacant. A Special Primary Election will take place April 6 in Assembly District 54 (San Diego, Chula Vista) to fill the seat vacated by Weber. Assembly District 79 (Los Angeles, Culver City) will hold a Special Primary Election on May 18 to fill the seat formerly held by Sydney Kamlager, who won election in November to the State Senate. Both vacancies are likely to be filled by Democratic candidates. Bonta's ascension would create a new vacancy in the Assembly. When all the vacancies are filled, it is widely anticipated that Democrats will have 60 seats in the Assembly. In the Senate, Democrats hold a supermajority of 31 seats, compared to 9 for the Republicans.

Let's look at criminal justice reform. Past reforms usually centered on persons convicted of minor offenses. However, people who have served lengthy sentences often pose the lowest risk of recidivism, and it is important to understand the role of systemic racism. In essence, society has been locking up too many people for too long because society is mad at them –not because their freedom would pose a risk to public safety. And of course, that involves how communities are policed.

Several bills have been introduced to restrict the use of sentence enhancements, which tack years or decades on to a prison sentence, often longer than the base offense. There is nothing magical or scientific about the length of prison sentences. Rather, they have tended towards political calculations and are disproportionately applied to women, persons of color and persons with mental health issues. **SB 81**, by Nancy Skinner (D-Berkeley), creates the legal presumption that enhancements will be applied only when there is clear and convincing evidence that not tacking on the enhancement would endanger public safety. **AB 333**, by Sydney Kamlager (D-Los Angeles), would restrict the use of gang enhancements and **AB 1509** by Alex Lee (D-Milpitas) curtails the use of gun enhancements.

Under California law, a person convicted of first-degree murder with a finding of a special circumstance can only be sentenced to death or life without parole. California's list of special circumstances is so expansive that creative prosecutors have almost unlimited discretion in seeking a death sentence in first degree murder cases, which can also be used to leverage guilty pleas in exchange for a sentence of life without parole. **SB 300**, by Dave Cortese (D-San Jose), amends the penal code so that accomplices could be sentenced to death or life without parole only if the state can prove that they intended to commit homicide and allows judges to strike "special circumstances" when a defendant is convicted of first-degree murder. **AB 1224**, by Marc Levine (D-San Rafael), also gives judges the discretion to dismiss special circumstances and creates the presumption that a special circumstance should be dismissed after serving 20 years without committing or attempting to commit violence against another person.

Last year, Gov. Newsom signed **AB 2542**, the Racial Justice Act by Ash Kalra (D-Santa Clara) to prevent the state to from seeking or obtaining a criminal conviction and/or imposing a sentence based on race, ethnicity, or national origin. This year Kalra has introduced **AB 256**, which makes the Racial Justice Act retroactive and allows those who have already been convicted to challenge convictions and sentences imposed based on race.

Bail reform has been reintroduced by Senator Bob Hertzberg (D-Van Nuys) and Assembly Member Rob Bonta (D-Oakland). Last year's enactment of money bail reform was overturned by the voters at the ballot last November. This time both **SB 262** (Hertzberg) and **AB 329** (Bonta) employ a new approach by setting bail at \$0.00 for misdemeanors and most low-level felonies instead of employing a risk assessment tool based on algorithms that many reformers cautioned would lead to inequitable outcomes for persons of color.

Policing is also high on the legislative agenda. **SB 2**, by Senate President pro Tem Toni Atkins (D-San Diego) will create procedures to decertify law enforcement officers who are convicted of serious crimes or are terminated from employment on account of misconduct. Without a statewide decertification process, there is nothing stopping a law enforcement officer who has been dismissed for serious misconduct from being hired by another agency. **SB 16**, by Nancy Skinner, creates more transparency and accountability when law enforcement officers engage in misconduct. Assembly Member David Chiu (D-San Francisco), has reintroduced a bill (co-sponsored by FCL Education Fund's sister organization FCLCA in 2018) that places restrictions on the procurement of military hardware by local law enforcement agencies. **AB 481** passed through the

Assembly Local Government Committee and will have a second policy committee hearing soon in the Assembly Public Safety Committee.

Single-payer, universal health care is back, thanks to **AB 1400** by Ash Kalra, Alex Lee and Miguel Santiago (D-Los Angeles). The California Guaranteed Health Care for All Act has 15 legislative co-authors and is sponsored by the California Nurses Association, which is currently organizing an extensive grass roots campaign.

**AB 311**, by Christopher Ward (D-San Diego), will close a loophole to prohibit the sale of “ghost guns,” which are unfinished frames or receivers and kits to build ghost guns at gun shows. Ghost guns have been widely used to commit crimes. Schools would be required to notify parents and guardians about safe firearm storage and child access prevention laws under **AB 452**, by Laura Friedman (D-Burbank).

Legislation to expand eligibility for full Medi-Cal for income-eligible seniors regardless of immigration status has been reintroduced. **SB 56**, by María Elena Durazo (D-Los Angeles) passed the Senate Health Committee and is now in the Senate Appropriations Committee. A similar version, **AB 4**, by Joaquin Arambula (D-Fresno), has been referred to the Assembly Health Committee. California will define racism as a public health crisis and will create the Office of Racial Equity under **SB 17** by Richard Pan (D-Sacramento). **AB 937**, by Wendy Carrillo (D- Los Angeles) would prohibit state prisons and local jails from cooperating with Immigration and Customs Enforcement upon an incarcerated person’s release from custody after serving their sentence.

And let’s not forget that climate change, the carbon-based economy and toxic pollution, while they threaten the very existence of life as we know it, also have disproportionate impacts on marginalized communities, especially those that are in proximity to industrial sites.

Senator Scott Wiener (D-San Francisco) has introduced **SB 260**, the Climate Corporate Accountability Act, which requires U.S.-based corporations with annual revenues in excess of \$1 billion that do business in California to publicly disclose their full carbon footprint and to commit to science-based emissions reduction targets. By directing state agencies, including the California Air Resources Board, the California Public Utilities Commission and the California Energy Commission, to designate green hydrogen as a key energy source for all renewable power uses and long-term storage, **SB 18** (Skinner) would help California to achieve its carbon emissions reduction targets. A bill to phase out fracking, **SB 467** by Scott Wiener, will be heard later this month in the Senate Natural Resources Committee.

Numerous bills have been introduced to address plastics contamination. In response to the huge increase in takeout food, **AB 1276**, by Assembly Members Wendy Carrillo and Lorena Gonzalez (D-San Diego), would require restaurants to provide single-use food utensils only when specifically requested by customers. Assembly Member Laura Friedman has introduced **AB 1371** to phase out the use of most single-use plastic films and expanded polystyrene in e-commerce packaging for online retail purchases and **AB 881** by Lorena Gonzalez will create transparency and educate consumers by reclassifying the export of mixed plastic waste that is not being recycled as waste.