



State News

UTA Bill Signed By Governor

By Mike Belote, California Advocates, UTA California Lobbyist

As this column is written, the California Legislature has eight days remaining in the 2017 legislative year. After the commencement of the fall recess on September 15, Governor Brown will have 30 days to sign or veto the 800-1000 bills which will come his way at the end of session. If you ever thought it would be fun to be Governor of California, not for the 30 days following the end of each legislative year!

For a variety of reasons, 2017 has been a difficult year in Sacramento. With Democrats achieving a 2/3 supermajority if both the Assembly and Senate, Republican influence has declined to the point where it is almost meaningless for Democrats to fight with Republicans. What the parties have done, then, is mostly to fight amongst themselves! The Democratic Speaker of the Assembly, Anthony Rendon, has been threatened with a recall from the left (“Berniecrats”) for shelving the single-payer health care bill for the year, while the Assembly Minority Leader, Chad Mayes, was removed from his leadership position from the right, for helping supply votes for the bill extending the state’s “cap and trade” system. Fun times for both sides!

So, the high-profile issues have been single-payer, cap and trade, gas taxes, sanctuary cities, and housing (more on that later). Meanwhile the workaday business of the legislature continues, and Governor Brown has signed or vetoed the trickle of bills which have reached his desk before the end of session. One of the bills recently signed was SB 479 (Morrell), sponsored by UTA. This bill corrects the oversight from legislation last year, which enacted a \$50 increase in the base trustee’s fee at the notice of default and notice of sale stages, but inadvertently failed to increase the fee upon the trustee’s sale. The bill also contains language restructuring the fee sections in the Civil Code without substantive change, so that beneficiaries, trustors, lawyers and others can understand them more easily. UTA members report no end of having to walk parties through the fee sections to explain how calculations were made, and the restructuring should help. Thanks to UTA Board member Andrew Boylan for suggesting the clean-up and for drafting the language, simplifying what may have been one of the most confusing statutes in California.

SB 479 becomes effective on January 1, 2018.

Meanwhile, one of the high-profile issues remaining at the end of the legislative year is housing. No one argues that California suffers from a severe supply imbalance in housing; the question is what can be done to remedy the problem. At the beginning of this year, more than 100 separate pieces of legislation were introduced on the subject, and as the end of session approaches, a handful are being pushed as a package. The biggest piece (and, paradoxically, perhaps the least controversial) is a \$3-4 billion bond to be placed before voters in 2018, to finance affordable housing. The smallest piece (and ironically, perhaps the most controversial) is a \$75 surcharge on recording real estate documents, in order to create a “permanent” funding source for housing.

UTA and a host of other real estate groups are opposed to the surcharge bill, SB 2, for a number of policy reasons. Because the bill exempts from the fee documents recorded in connection with transfers subject to the documentary transfer tax, a person buying a \$5 million house will not pay the surcharge, at least on the grant deed. A working person subject to a recorded notice of default and notice of sale, on the other hand, will pay potentially hundreds of dollars in surcharge in order to save the home!

There are a number of other problems with the surcharge proposal, including creating a disincentive to record documents in the first place, and an almost-complete lack of guidance on what constitutes a “real estate document”. Imagine 58 different recorders deciding which documents to surcharge out of the hundreds eligible for recordation.

Having already taken hard votes for a gas tax increase and the cap and trade legislation, it is unclear whether legislators can summon the will to achieve a 2/3 vote on the surcharge proposal, which has failed in the past. Stay tuned and attend the UTA Conference to learn how it all came out!



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