
Legislative Update 2010: A First Look at What Passed, What Failed and What Never Really Got Going

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While various bills signed into law by Governor Schwarzenegger either impact or are of interest to community associations, much of the story of the 2010 legislative year focuses on bills that were vetoed or did not even reach the Governor's desk for consideration. This article presents some "first look" highlights of select Assembly Bills (AB) and Senate Bills (SB) that did not pass, were vetoed and were signed into law, and does not represent a complete list of all legislation which may impact community associations. A more comprehensive discussion of these bills, and other legislation, will be addressed at the Epsten Grinnell & Howell, APC, legal symposium, in San Diego on November 12, and in the Coachella Valley on December 2. As always, associations are advised to consult their legal counsel regarding specific questions and issues.

A. Bills that Did Not Pass

AB 2502 (Brownley) Common interest developments: requests for notices of default

Dropped by Author

As introduced, this bill might have allowed owners to stop paying assessments and barred collection agents from being paid for work performed. Both the Community Associations Institute (CAI) and the California Association of Community Managers (CACM) opposed the bill. After receiving over 900 letters of opposition, the author extensively amended, and ultimately dropped, the bill.

AB 1975 (Fong) Water Meters for New Developments

Died In Committee

Sponsored by the Sierra Club and supported by water agencies, this bill would have required new multi-family developments to have one master water meter and individual submeters to each dwelling. It would not have allowed landlords to charge tenants for their individual water usage based on the submeter reading. The bill died in committee.

B. Vetoed Bills

AB 1726 (Swanson) Ballots and Quorum Requirements in Common Interest Developments

Vetoed

This bill would have applied to associations without reduced quorum requirements in their existing documents. It would have allowed these associations to reduce their quorum requirements for membership meetings, including board elections, to 40% then 33% if needed. The bill was originally focused on election issues, but was also expanded to include modifications to the "Open Meeting Act," including executive session within the definition of a "meeting," as well as updates to Civil Code section 1363.05 regarding electronic meeting participation by directors.

AB 1793 (Saldana) Artificial Turf in Common Interest Developments

Vetoed

This bill would have declared void and unenforceable any provisions in governing documents that prohibited the installation of artificial turf by homeowners. This bill was sponsored by the San Diego Water Authority and supported by many other water agencies.

AB 1927 (Knight) Prohibit Rental Restrictions in Common Interest Developments

Vetoed

This bill was sponsored by the California Association of Realtors. It was intended to limit an association's ability to limit renters, even if the association adopted the limitations as amendments to its governing documents.

C. New Laws

AB 2016 (Torres) Associations' Blanket Request for Notices of Default

New Law Effective January 1, 2011

Existing law requires a trustee or mortgagee to record a notice of default and to post and publish a notice of sale prior to selling real property at a foreclosure sale. A new law from the 2007 legislative session allowed an association to record a request against a single lot or unit asking a mortgagee, trustee, or other person authorized to record a notice of default regarding that unit or lot to mail the association a copy of any trustee's deed upon sale of the unit or lot. This bill allows an association to record a

single “blanket” request covering all the units or lots in the association so the association will be notified of foreclosure sales.

Recommended Action? Yes, recording a blanket request for notification from trustees or mortgagees will reduce the paperwork and cost to associations and allow them to obtain foreclosure information more quickly.

SB 127 (Calderon) Automatic External Defibrillators in Health Studios

Extends Existing Law and Makes Amendments Effective January 1, 2011

Existing law requires “health studios” as defined, to acquire an automatic external defibrillator and to meet specified training and maintenance standards relating to that device. This new law requires the health studio to deny access to members when an employee is not present if the facility is larger than 6,000 square feet, and that on or before January 1, 2012 and before January 1 of each of the following three years, the health studio is required to report to the Legislature certain information as prescribed in the law.

Recommended Action? Probably none, but the applicability of this law to community associations has been debated. The Office of Legislative Counsel for California issued an opinion that this law does not apply to community associations, but this opinion would not necessarily be decisive in a lawsuit arising out of the failure to have an automatic external defibrillator. If an association has a fitness facility greater than 6,000 square feet (think outdoor exercise areas), the impact of this new law should be discussed with legal counsel.

AB 2049 (Nestande) Water Shortage Contingency Analysis by Urban Water Suppliers

New Law Effective January 1, 2011

The Urban Water Management Planning Act, an existing law, requires urban water suppliers to adopt an urban water management plan for submission to the Department of Water Resources and other entities. The Act requires each urban water supplier to update its urban water management plan at least once every 5 years. The Act requires an urban water management plan to include, among other things, an urban water shortage contingency analysis. The urban water shortage contingency analysis is required to include various elements relating to water supply availability during water shortages and interruptions. This bill, beginning with the urban water management plan update due on December 31, 2015, requires an urban water supplier for purposes of developing a water shortage contingency analysis, to analyze and define water features that are artificially supplied with water, including ponds, lakes, waterfalls, and fountains, separately from swimming pools and spas.

Recommended Action? Nothing for now, but if there was ever any question about whether water features might need to be shutdown during a water shortage, this legislation likely answers those questions. Maybe, reading between the lines, swimming pools and spas might be kept open, depending on the severity of the shortage.

SB 183 (Lowenthal) Carbon Monoxide Poisoning Prevention Act of 2010

New Law Effective January 1, 2011

This bill requires the installation of carbon monoxide detectors, similar to the requirements for smoke detectors.

The carbon monoxide devices must be approved and listed by the State Fire Marshal. The carbon monoxide devices must be installed in each existing dwelling unit having a fossil fuel burning heater or appliance, fireplace, or an attached garage, within the earliest applicable time period, as follows:

- (1) For all existing single-family dwelling units intended for human occupancy on or before July 1, 2011.
- (2) For all other existing dwelling units intended for human occupancy on or before January 1, 2013.

The number and placement of carbon monoxide devices must be consistent with building standards applicable to new construction for the relevant type of occupancy or with the manufacturer's instructions, if it is technically feasible to do so.

A violation of this requirement is an infraction punishable by a maximum fine of two hundred dollars (\$200) for each offense. A property owner must receive a 30-day notice to correct before being fined.

Recommended Action? Start making owners aware of this requirement. If an association undergoes a major reconstruction project, the failure of the owners to have carbon monoxide detectors might prevent the association from obtaining certificates of completion from the city or county.

SB 951 (Correa) Inspection of Mobilehome Parks

Extends Existing Law that was set to Expire

The Mobilehome Parks Act requires the Department of Housing and Community Development or a city, county, or city and county that assumes responsibility for the enforcement of the act to enter and inspect mobilehome parks with a goal of inspecting at least 5% of the parks each year to ensure enforcement of the act and implementing regulations. Existing law also requires an enforcement agency to issue a notice to

correct a violation. Existing law repeals these provisions on January 1, 2012. This bill extends the repeal of these provisions to January 1, 2019.

The Mobilehome Parks Act imposes prescribed fees, including, among others, a fee of \$4 per lot to be used exclusively for the inspection of mobilehome parks and mobilehomes to determine compliance with the Mobilehome Parks Act. Existing law repeals the \$4 fee per lot on January 1, 2012. This bill extends the January 1, 2012, repeal date to January 1, 2019, thereby extending the imposition of the \$4 fee per lot until that date.

Recommended Action? None for most associations; will allow continued inspections and require payment of fee.

SB1047 (Correa) Mobilehome Residents who Rent or Lease

New Law Effective January 1, 2011

The Mobilehome Residency Law generally governs the terms and conditions of tenancies in rental mobilehome parks. The law has separate provisions that apply to the rights of residents who have an ownership interest in a subdivision, cooperative, or condominium for mobilehomes or a resident-owned mobilehome park.

This bill provides that the Mobilehome Residency Law governs the rights of members who have rental agreements with the corporation in a mobilehome park owned and operated by a nonprofit mutual benefit corporation, established pursuant to Section 11010.8 of the Business and Professions Code, whose members consist of park residents where there is no recorded condominium plan, tract, parcel map, or CC&Rs.

Recommended Action? None for most associations, but a HUGE impact for nonprofit resident-owned mobilehome communities that lease spaces to the members rather than have individual ownership of units or lots with CC&Rs.