

AB 912 (OBERNOLTE): CALIFORNIA SMALL BUSINESS REGULATORY FAIRNESS ACT

POSITION: On April 4, 2017, the Chamber's Small Business Roundtable supported AB 912 with the recommendation that a review process be identified for small businesses that believe they should have benefitted from a reduction in a penalty. The Chamber's Public Policy Committee is scheduled to consider the bill on April 11, 2017.

STATUS: AB 912 was introduced by Assembly Member Jay Obernolte on February 16, 2017 and re-referred to the Committee of Accountability and Admin. Review on March 28, 2017.

AT-A-GLANCE

AB 912 requires each State agency to create a policy allowing agency representatives to reduce penalties on a small business if the business hasn't faced agency enforcement before, was not willfully committing the violation, and in the violation did not impose an imminent threat among other criteria.

SUMMARY

AB 912, as currently drafted, would create a framework for allowing state agencies discretion when enforcing penalties for regulatory infractions on small businesses with 100 or fewer employees and average annual gross receipts of \$10 million or less. Currently, agencies are not allowed this discretion and are instead, required to enforce fines as determined through statutory formulas.

The bill outlines the framework from which to create policies identifying the situations in which a reduction may be granted as when:

- The fine is a result of a first offense.
- The violation was not willful or criminal.
- The violation did not impose an imminent health, safety, or criminal threat.
- The small business is unable to pay.
- The small business has a "low degree of culpability."
- The small business has cooperated.
- The small business has engaged in subsequent action to correct the violation.

ANALYSIS

In any circumstance in which this discretion is used, the small business could only benefit. The intent of the law appears to provide the tools needed by agency personnel to enforce regulations while respecting the complicated and ever-changing nature of them, as well as the limited resources of small businesses.

SUPPORT

- California Apartment Association
- California Business Properties Association
- California Chamber of Commerce
- California Farm Bureau Federation
- California Independent Petroleum Association
- California Lodging Industry Association
- California Manufacturers & Technology Association
- California Trucking Association
- Camarillo Chamber of Commerce
- El Centro Chamber of Commerce
- Fresno Area Chamber of Commerce
- Hesperia Chamber of Commerce

- Independent Lodging Industry Association
- Industrial Environmental Association
- Murrieta Chamber of Commerce
- National Federation of Independent Business
- National Shooting Sports Foundation, Inc.

- North Orange County Chamber of Commerce
- Rancho Cordova Chamber of Commerce
- Santa Barbara Regional Chamber of Commerce
- Torrance Area Chamber of Commerce
- Yuba Sutter Chamber of Commerce

OPPOSITION

California Nurses Association