

CalTax Year in Review: California Taxpayers Spent 2021 in a State of Suspense

In many ways, 2021 was a year of prolonged suspense for Californians. Would the pandemic linger, end, or get worse? Would voters retain Governor Gavin Newsom or recall him three-fourths of the way through his first term? Would businesses bounce back or be derailed by COVID variants, labor shortages, and a challenging tax climate – potentially made worse by legislative proposals calling for another \$236.4 billion in annual taxes and fees?

The questions didn't end there. Would the state government's revenue windfall prompt tax relief? Would the calls for tax hikes continue despite the record surplus? Would increases in inflation and crime – and their economic and societal costs – be temporary or lasting?

While these and many other questions were on the minds of California taxpayers for much of 2021, at least some of the answers were known by the time the new year was ushered in this week with strains of "Auld Lang Syne."

As is our annual tradition, CalTax marks the arrival of the new year by taking a quick look back at the one just passed ...

The Pandemic Continues

While 2021 was a year of recovery from COVID-19 in many ways – as vaccines and lifestyle adjustments slowly increased Californians' ability to conduct business, attend school, and hold social gatherings – the emergence of COVID variants thwarted hopes for a timely return to pre-pandemic living.

Schools went back to in-person classes in the fall, and the torrent of gubernatorial press conferences and executive orders that marked the prior year slowed to a trickle, but a December surge in COVID cases threatened to undo the progress.

Both houses of the Legislature postponed the beginning of the 2021 session due to a surge of COVID cases in the state, and eventually used a hybrid of remote and in-person meetings and hearings – generally with fewer technical glitches than in 2020. Legislative leaders also limited the number of bills each lawmaker could carry, imposed a vaccination mandate for staff, and partially reopened the Capitol midway through the year (legislators and staff vacated the Annex portion of the Capitol late in the year, however, to make way for massive reconstruction). The legislative process was less than ideal, however, as committee chairs strictly – and somewhat arbitrarily – limited testimony on most proposals, including complex bills that could have major effects on the state.

Newsom delivered his State of the State Address remotely, at a March 9 online event originating from a nearly empty Dodger Stadium in Los Angeles, rather than giving a typical address to lawmakers in a packed room in the Capitol. He urged Californians to "not let the pain of last year deter the hopefulness of tomorrow."

In one of the more unexpected COVID-related moments of the year, Newsom announced in late May that the state would give away \$116.5 million in taxpayer-funded prizes to encourage Californians to get vaccinated. The program included a \$15 million grand prize to be split between 10 people. Newsom presided over some of the drawings in a game-show setting. The governor said the prize money initially would come out of the state's general fund, but would be replaced by federal COVID-19 relief funds. Winners were not publicly identified by name.

Voters Keep Governor Newsom in Office

The first nine months of 2021 were filled with politics, polling, punditry, and legal proceedings related to the effort to recall Newsom from office. The recall became the top story not only in California, but in political circles around the country.

It became apparent in early February that the proponents were likely to have enough signatures to qualify the recall for the ballot. Former state Senator Don Perata responded with a campaign urging people to remove their signatures from recall petitions, but only 43 people did so.

With more than 1.7 million valid signatures delivered – approximately 200,000 above the required number – the qualification was officially announced in late June, and the election was scheduled for September 14.

Observers had viewed the effort as a longshot, but both sides of the campaign kicked into overdrive after a poll indicated the recall was supported by almost half of those who intended to vote. President Joe Biden, Senator Bernie Sanders, Senator Elizabeth Warren, and many others urged Democrats to defeat what they described as a partisan effort by supporters of former President Donald Trump.

The recall ballot included 46 official replacement candidates, including lawyer and radio show host Larry Elder, former San Diego Mayor Kevin Faulconer, former Olympian Caitlyn Jenner, businessman John Cox, State Board of Equalization Member Ted Gaines, Assembly Member Kevin Kiley, former U.S. Representative Doug Ose (who ended his campaign after suffering a heart attack), and Kevin Paffrath, a YouTube personality who was the highest-profile Democratic replacement candidate.

Before Election Day, several disputes were resolved by the courts: A judge ruled that candidates were not required to release their tax returns (overturning Secretary of State Shirley Weber's decision to leave Elder off the ballot based on her finding that tax returns he submitted did not comply with the law); the courts rejected Newsom's request to include his party designation on the ballot despite his lawyers' failure to meet a deadline; and a federal judge ruled that California's recall process does not violate the U.S. Constitution.

When September 14 finally arrived, Californians overwhelmingly voted to keep Newsom in office. In the final tally, with 12.89 million votes counted, 61.9 percent of the voters opposed recalling Newsom – precisely the same percentage that supported him in the 2018 general election.

The governor is expected to run for re-election in this year's regularly scheduled contest.

Many prominent Democrats blasted the recall as a waste of time and money, and proposed various ways of making it more difficult for recalls to qualify. The Little Hoover Commission, an independent

commission formed in 1962 to make recommendations for improving state government – voted unanimously in late September to study whether the recall system should be changed.

State Budget Approved in Stages

The state budget process began in the usual way, with Newsom presenting a \$227.2 billion proposal (roughly \$25 billion higher than the previous budget) days before the January 10 constitutional deadline. Newsom told reporters that wealth taxes and income tax increases “are not part of the conversation” – a statement that senior advisor Dee Dee Myers later reinforced, and which the governor upheld throughout the process.

Everything after the January unveiling was distinctly different from the norm, however. Rather than focusing on the passage of one budget bill and the “trailer bills” needed to implement it, Newsom and Democratic legislative leaders negotiated and approved the budget in stages:

- An “immediate action agreement” was unveiled February 17 after being negotiated behind closed doors between Newsom and the Democratic leaders. Five days later, it was approved by both houses, and Newsom signed it the following day. The stimulus package included \$9.6 billion in budget changes – spending increases and relief measures – including \$4.7 billion directed to small businesses.
- During a five-day period in March, the Legislature and governor announced and approved a \$6.6 billion measure to encourage some schools to reopen.
- In April, a fast-tracked bill appropriated \$536 million for a variety of fire prevention and suppression measures.
- The governor’s May budget revision included \$267.8 billion in spending, including what the governor branded a \$100 billion California Comeback Plan. A version of this proposal, trimmed slightly to \$267.1 billion, was approved the day before the Legislature’s June 15 constitutional deadline to send a budget to the governor or forfeit pay.
- In late June and again in July, the Legislature and governor approved “budget bill junior” measures. Almost one month after the July 1 beginning of the fiscal year, the governor and lawmakers still were approving budget trailer bills.

With state revenue increasing at historic rates – enough to create a \$31 billion surplus to allocate in this year’s budget, according to the Legislative Analyst’s Office (LAO) – CalTax and others pushed for a cancellation of the final year of the \$9.2 billion tax hike approved in 2020 (AB 85, which suspended the net operating loss deduction and placed a limit of \$5 million per year on business tax credits, including the research-and-development credit, for three years). The tax increases were kept in place, however, even after the director of the Department of Finance acknowledged that the justification for the tax hikes – a 2020 projection of a massive revenue shortfall – was erroneous.

The budget process will begin again next week when Newsom unveils his proposal for the 2022-23 fiscal year. The state constitution’s spending limit will be “the key issue” and “will constrain how the Legislature can allocate the estimated surplus,” the LAO reported in November. The analyst estimated that the state will need to allocate roughly \$14 billion – “for example by spending more on capital outlay or making taxpayer rebates and school and community college payments” – to stay under the appropriations limit.

Lawmakers Continue Introducing Tax Increases

Despite the state's surplus, the governor's announcement that taxes were off the table, and mounting evidence that high taxes are having a negative impact on California jobs, state lawmakers considered raising annual taxes and fees by more than \$236.4 billion in 2021, the California Tax Foundation reported December 1.

One of the biggest tax threats for businesses, [AB 71](#) (Luz Rivas), initially would have increased the corporate income tax rate and additionally proposed a tax increase that would require a taxpayer that makes a water's-edge election to consider 50 percent of the global intangible low-taxed income and 40 percent of the repatriation income of its affiliated corporations. Faced with opposition from a CalTax-led coalition, the author removed the CIT rate increase from the bill. The pared-down version was defeated on the Assembly floor but could be reconsidered this year.

Other proposals included [AB 1400](#) (Kalra), creating the taxpayer-funded California Guaranteed Health Care for All program to provide universal single-payer health care coverage in California; [AB 65](#) (Lowe), proposing a 1 percent surcharge on income above \$2 million to provide monthly basic income payments to Californians who meet specific requirements; [AB 310](#) (Lee), proposing a wealth tax of 1 percent on taxpayers with worldwide net worth greater than \$50 million and a 1.5 percent wealth tax on taxpayers with a net worth greater than \$1 billion; [AB 1253](#) (Santiago), proposing higher income tax rates for income above \$1 million; and [ACA 1](#) (Aguiar-Curry), lowering the vote threshold for local taxes that finance "affordable housing" and "public infrastructure," as broadly defined by the measure. None of these proposals gained traction.

Three tax measures were signed into law, however. The governor signed legislation imposing an excise tax on electronic cigarettes and two bills increasing a cumulative \$250 million per year in taxes on telecommunications services to generate funds for broadband expansion.

Federal "Tax Mandate" Causes Confusion

The federal government threw a wrench in the works in early March when President Joe Biden signed the American Rescue Plan Act (ARPA), a \$1.9 trillion COVID relief package with a provision effectively banning states from reducing taxes after receiving relief funds.

A state cannot use the federal funds to "either directly or indirectly offset a reduction in the net tax revenue of such State ... resulting from a change in law, regulation, or administrative interpretation during the covered period that reduces any tax (by providing for a reduction in a rate, a rebate, a deduction, a credit, or otherwise) or delays the imposition of any tax or tax increase," according to the legislation.

CalTax and 16 other state taxpayer associations sent a letter to U.S. Treasury Secretary Janet Yellen asking for guidelines to clarify provisions of the legislation, and California Department of Finance Director Keely Bosler recommended that Yellen provide "flexible guidance." California lawmakers postponed hearings on some tax-relief measures while waiting for Yellen's response.

In April, Yellen announced that states are permitted to conform to federal tax law even if the conformity results in a revenue loss, and in May, the U.S. Department of the Treasury issued an

interim final rule and fact sheet to provide guidance that included clarification of what types of tax cuts would trigger penalties.

Kentucky, Ohio, Tennessee, and other states challenged the “tax mandate” provisions of the ARPA and prevailed in federal district courts, but appeals filed by the Department of the Treasury have yet to be decided.

Duplicative Sales Tax Administration Legislation Vetoed

The governor vetoed [SB 792](#) (Glazer), which would have required a retailer who makes more than \$50 million in online sales per year to provide the state with data about the buyers’ locations. The veto message echoed concerns raised by CalTax, including the fact that it would duplicate extensive information already available from the California Department of Tax and Fee Administration.

Noteworthy New Laws

The most notable new laws of 2021 essentially eliminate single-family zoning in California and allow local governments to rezone some parcels in urban areas without going through an environmental review process.

Newsom also signed legislation to: implement Proposition 19 ([SB 539](#), Hertzberg); improve state oversight of funds spent to address homelessness ([AB 977](#), Gabriel); authorize Los Angeles County to reduce the waiting period – from three years to one – for former employees of an assessor’s office to serve on the county’s assessment appeals boards ([AB 1203](#), Burke); and require local government agencies to provide local agency meeting materials by email upon request, if technologically feasible ([SB 274](#), Wieckowski).

Several Tax Increase Initiatives Filed

Almost a year before the November 2022 election, initiatives began qualifying for the ballot, and many others were filed later in the year.

The first measures to qualify included one that would create a costly new tax on single-use plastic packaging and foodware ([Initiative 19-0028A1](#)) and a referendum of the 2020 state law ([SB 793](#), Hill) banning retail sales of flavored tobacco products. Other measures – including one that would allow tribal casinos to offer sports betting and another that would increase the cap on medical malpractice awards – are eligible for the ballot but can be withdrawn by proponents any time between now and 131 days before the election.

Of biggest concern to taxpayers, fresh off the voters’ rejection of the split-roll property tax initiative of 2020, special-interest groups filed new initiatives seeking to repeal Proposition 13 protections for commercial property owners.

Initiatives cleared for signature-gathering or nearing that status include:

- Two measures proposing tax increases to fund a variety of programs related to electric vehicles ([Initiatives 21-0038A1](#) and [21-0037A1](#)). The former initially would have mandated

worldwide combined reporting for corporate taxpayers, but those provisions were removed, leaving a 2.45 percent corporate income tax surcharge – applied to banks and financial corporations as well – on net income above \$20 million for each taxable year after 2023. The latter measure proposes a personal income tax surcharge of 1.75 percent on taxable income above \$2 million for each taxable year after 2023, bringing the state's top PIT rate – already the highest in the nation – to 15.05 percent.

- A split-rate property tax increase sponsored by the Service Employees International Union (SEIU) United Healthcare Workers West. [Initiative 21-0023](#) proposes a 1.2 percent property tax “surcharge” on commercial, residential, industrial, and mixed-use real property – or vacant land – with “full cash value” of \$5 million or more, and a lower amount on property valued from \$4 million to \$5 million.
- A personal income tax increase on high-earning Californians to fund technology that ostensibly would create an early-warning system to detect, prevent, and defeat biological threats before they become pandemics ([Initiative 21-0022A1](#)).
- The Taxpayer Protection Act, which would increase voters’ power over state and local taxes and reverse court decisions that weakened the state constitution’s vote threshold for local special taxes ([Initiative 21-0042A1](#)).
- A proposal by wealthy entrepreneur Joe Sanberg to increase California’s minimum wage to more than \$18 an hour ([Initiative 21-0043](#)).
- A measure filed by the Howard Jarvis Taxpayers Association to repeal provisions of Proposition 19 that increase property taxes on intergenerational transfers of family property ([Initiative 21-0015A1](#)).
- A proposal to repeal the new law that eliminates single-family housing zoning ([Initiative 21-0016A1](#)).
- A measure filed by former state lawmaker Sam Blakeslee proposing that ballot measure materials – including the ballot label, title, title, and summary – no longer be drafted by the attorney general and instead be prepared by the legislative analyst ([Initiative 21-0024A1](#)).
- A proposal to authorize local governments to issue bonds for affordable housing projects if approved by a simple majority of voters, and to levy ad valorem property taxes to retire the bonds ([Initiative 21-0040A1](#)).
- A plan to enforce stricter punishments on repeat offenders of petty theft, including “porch pirates” ([Initiative 21-0041A1](#), filed by Sacramento attorney Thomas Hiltachk).

Several of the initiatives have major financial backing, and thus are likely to qualify if the proponents decide to move forward with full-scale signature-gathering efforts. Qualified measures will appear on the November ballot unless proponents withdraw them (as part of a legislative compromise with opponents, for example).

Local Taxes

California cities are experiencing significant tax revenue growth, the state auditor reported August 17, adding that because of the increased revenue, “most cities are well positioned to increase or improve services for residents or reduce taxes and fees.”

A portion of the increase comes from growth in property tax revenue. County assessors throughout the state reported growth in their assessment rolls – in Los Angeles County, which accounts for a major portion of the state's total property value, Assessor Jeff Prang reported assessment roll growth of 3.7 percent, marking the county's 11th consecutive year of growth in taxable values.

In 2021, property tax growth was lower than in some previous years, primarily because the inflation factor – the maximum increase in value for a property that has not changed owners or undergone new construction – was 1.036 percent (only the eleventh time since 1976 that the inflation factor fell below the 2 percent cap allowed under Proposition 13). The State Board of Equalization announced late in the year that the 2022 inflation factor will be back to 2 percent.

Despite the revenue growth, local governments placed 41 tax increase measures on the ballot, and 28 were approved by voters.

A report issued in late August by the California Tax Foundation revealed that from 2010 to 2020, voters approved 1,359 of the 1,956 local tax measures on the ballot in California.

There were some tax-like “fees” that were not placed before voters:

- The South Coast Air Quality Management District approved a rule requiring owners of warehouses with more than 100,000 square feet of indoor space in a single building to reduce emissions or pay a “mitigation fee” that actually is a tax. The “fee” has been challenged in *California Trucking Association v. South Coast Air Quality Management District*, pending in the U.S. District Court for the Central District of California.
- In late October, the ports of Long Beach and Los Angeles enacted a “Container Excess Dwell Fee” on shipping containers that sit in the port six days or more (for containers scheduled to move by rail), or nine days or more (for containers scheduled to move by truck). Although the “fee” went into effect November 1, port authorities have not yet enforced it.

There also was some good news for taxpayers, as the Fair Political Practices Commission fined the city of Fountain Valley \$18,000 for using tax dollars to campaign for a sales tax measure, increasing enforcement and public awareness of the ban on using public resources for campaigns.

Taxpayers Had a Bad Year in the Courtroom

For taxpayers, things did not go well in the courtroom in 2021.

The courts continued to negate the state constitution's two-thirds vote requirement for local special taxes, ruling in several cases that special taxes placed on the ballot through the initiative process require only a simple majority to pass. As in past years, the decisions were based on the California Supreme Court's 2017 decision in *California Cannabis Coalition v. City of Upland*, which differentiated between special taxes placed on the ballot by elected officials and citizens.

The anti-taxpayer outcome was seen in the First District Court of Appeal's decisions upholding Proposition C, a June 2018 commercial rent tax to fund early childcare and education, and Proposition G, a June 2018 parcel tax that dedicates revenue to the San Francisco School District. The California Supreme Court denied petitions to review the cases, and also refused to review *City of*

Fresno v. Fresno Building Healthy Communities, relating to Proposition P of November 2018, a sales tax increase with revenue earmarked for parks and other purposes.

The Third District Court of Appeal also joined the chorus, reversing a taxpayer-friendly decision from the Yuba County Superior Court and ruling that a Yuba County sales tax increase was a majority-vote general tax even though the revenue is earmarked for special purposes.

Other noteworthy cases decided last year:

- Early in the year, the California Supreme Court ruled that its landmark 2018 *Dynamex* decision, which established a new standard for distinguishing between employees and independent contractors, applies retroactively.
- In May, the state Supreme Court denied a petition to review *Ashford Hospitality Advisors v. City and County of San Francisco*, allowing San Francisco to continue collecting a real property transfer tax that charges different rates based on the “consideration for or value of the realty sold.” Taxpayers argued that the varying rates violate the Equal Protection Clause of the U.S. Constitution.
- The Third District Court of Appeal ruled in June that a property owner who agreed to a “joint recommendation” with State Board of Equalization staff on the value of a state-assessed property cannot subsequently challenge the value in court (*Verizon California Inc. v. Board of Equalization et al.*).
- Provisions of voter-approved Proposition 22 are unconstitutional and the entire gig worker initiative is invalid, an Alameda County Superior Court judge ruled August 20, holding that the measure improperly limits “the power of a future legislature to define app-based drivers as workers subject to workers’ compensation law.”
- The litigation between the Franchise Tax Board and Nevada inventor Gilbert Hyatt continued for yet another year. The Nevada Supreme Court ruled in April that Hyatt will have to pay the FTB’s legal costs but not attorney fees for their long-running dispute, and remanded the case to the lower court to determine the amount. Both parties filed briefs late in the year, and a hearing is scheduled for later this month.

State Tax Agencies

There were no major surprises from the state tax agencies, but each had a busy year, interacting with taxpayers primarily through teleconferences and remote hearings.

At the **Office of Tax Appeals**, new regulations governing appeals – including a provision to allow closed hearings for taxpayers represented by certified public accountants – took effect March 1 upon approval by the Office of Administrative Law.

Additionally, a significant change was made to the OTA’s process for considering petitions for rehearing. Rather than having the petitions heard by the same three administrative law judges who decided the appeal originally, the petitions were heard by a panel consisting of the original lead judge and two new judges. This change led to some original decisions being overturned by the new panels – and at least one of these decisions has been challenged in court (*Starbuzz Tobacco Inc. and Starbuzz International Inc.* argue that the OTA had no legal basis upon which to order a rehearing of

an excise tax appeal, as the original hearing was conducted properly and resulted in a unanimous decision supported by the law).

In another notable appeal, the OTA ruled that installation of satellite television systems is subject to tax – a reversal of a pro-taxpayer ruling issued by the State Board of Equalization in 2017 prior to the creation of the OTA.

The OTA reported that it opened 2,163 new cases and closed 1,794 cases in 2021. The agency published 88 business tax opinions and 277 franchise and income tax opinions from these appeals, and there were 25 precedential opinions. Many cases were resolved prior to the appeal being heard, the OTA added. The OTA reported that 27.3 percent of cases were resolved with the tax agency withdrawing the case, compared to 6.3 percent of cases resolved with an agreement between the parties and 5.6 percent withdrawn by the taxpayer.

In May, the OTA released a precedential 2-1 opinion in *The Appeal of R. Jones* supporting the Franchise Tax Board's interpretation of when the "demand penalty" can be imposed. The opinion was a stark contrast to several unanimous opinions in which the OTA abated the penalty on the grounds that an FTB regulation misinterprets "during the preceding four taxable years" to improperly expand the period of time in which the penalty could be imposed. Some opinions released later in the year included footnotes from OTA judges who said they disagreed with the precedent but were compelled to follow it.

The **Franchise Tax Board** once again extended the traditional April 15 income tax deadline due to the pandemic. The deadline for Californians to file returns and pay personal income tax for the 2020 tax year was extended to May 17 in conformity with a federal change.

The FTB also moved forward in the regulatory process with proposed amendments to Regulation 25137, relating to alternative apportionment method petitions, and Regulation 25136-2, relating to market-based sourcing for sales other than tangible personal property.

In 2021, the FTB also issued its first legal ruling since December 2019, describing five sample situations and presenting the agency's position on whether the various entities in the examples are unitary or not.

In a notable personnel move, longtime FTB employee Brenda Voet was appointed as the agency's new taxpayers' rights advocate, succeeding Susan Maples, who was appointed as director of the Economic and Statistical Research Bureau.

The **California Department of Tax and Fee Administration** looked forward to moving out of its problem-plagued headquarters at 450 N Street in downtown Sacramento, as construction started on its new headquarters on Richards Boulevard, a short drive away.

The **State Board of Equalization** focused most of its attention on issues relating to the implementation of Proposition 19 and possible guidance to county assessment appeals boards regarding remote hearings.

Proposition 19, approved by voters in November 2020, allows more portability of base-year values of the primary residences of seniors and severely disabled individuals, without restrictions based on

county lines, and also eliminates an exemption for change-in-ownership reassessment for inherited properties if they aren't used as the beneficiaries' principal residence. Because the measure included vague and inconsistent provisions, the BOE and the California Assessors' Association pushed for the Legislature and governor to approve implementation legislation before the measure's February 16 effective date. However, the implementation bill (SB 539, Hertzberg) was not introduced until two days after Proposition 19 took effect, and wasn't signed until very late in the year.

At the end of the year, the board elected Member Malia Cohen to serve as chair effective this week, succeeding Antonio Vazquez, who served as chair for two years. Cohen, who announced her candidacy for state controller midway through the year, also served as chair during the first year of her term.

The BOE's new headquarters in Natomas became operational, but the majority of the BOE staff continued working remotely due to the pandemic, and plans for returns to in-person meetings were postponed as COVID cases surged.

Taxpayers were pleased when Executive Director Brenda Fleming revived the BOE Advisory Council, comprised of representatives of government agencies, taxpayer groups, enrolled agents, professors, and others. CalTax has served on the council since its creation.

In August, CalTax Policy Advocate Dustin Weatherby was named chief of the State Board of Equalization's Legislative, Research and Statistics Division. CalTax President Robert Gutierrez commented: "For most of the last 40 years, this position has been filled by CalTax alumni, and we are excited to see Dustin carry on this tradition."

Musical Chairs

There was a notable increase in the number of government officials resigning or running for new offices, with cascading effects:

- California Supreme Court Justice Mariano-Florentino Cuéllar left the court October 31 to become the new president of the Carnegie Endowment for International Peace, giving Newsom an opportunity to make his second nomination to the high court.
- At the end of 2021, Assembly Member Lorena Gonzalez accepted the California Labor Federation's offer to lead the union when longtime leader Art Pulaski steps down in July (she announced the acceptance this week, and resigned from the Legislature effective two days ago). Newsom will call a special election to fill the remainder of her term.
- Assembly Member Sydney Kamlager was elected to the state Senate to fill the vacancy left when Senator Holly Mitchell was elected to the Los Angeles County Board of Supervisors in November. Isaac Bryan was elected to fill the Assembly vacancy.
- Akilah Weber won the special election to fill the vacancy left when her mother, Assembly Member Shirley Weber, was sworn in as secretary of state (Shirley Weber filled a vacancy left when Secretary of State Alex Padilla was appointed as a U.S. senator to fill the vacancy left when Senator Kamala Harris was elected vice president).
- The U.S. Senate voted March 18 to confirm California Attorney General Xavier Becerra as U.S. Secretary of Health and Human Services. Newsom appointed Assembly Member Rob Bonta

as the new attorney general, and Bonta's wife, Mia Bonta, was elected to fill the Assembly vacancy.

- San Francisco Mayor London Breed appointed Assembly Member David Chiu as San Francisco's city attorney. Newsom has scheduled a special election for February 15 to fill the Assembly vacancy.
- Assembly Member Jim Frazier resigned at the end of the year to "use my passion and experience in the transportation sector, explore new career opportunities and spend additional time with family and friends."
- Newsom appointed Assembly Member Ed Chau to the Los Angeles County Superior Court and scheduled a February 15 special election to fill the vacancy.
- President Joe Biden nominated Los Angeles Mayor Eric Garcetti as the U.S. ambassador to India. If Garcetti is confirmed by the U.S. Senate, the Los Angeles City Council will appoint someone to fill the remaining months of Garcetti's term. The regularly scheduled primary and general mayoral elections will be held June 7 and November 8, respectively.
- San Francisco Mayor London Breed appointed Assessor-Recorder Carmen Chu to the post of city administrator and selected Joaquin Torres, director of the city's Office of Economic and Workforce Development, to fill the assessor vacancy.

Many Employers Leave for Lower-Cost States

California is the worst state in the United States for business, according to a survey of chief executive officers released April 28 by *Chief Executive Magazine*. The Washington, D.C.-based Tax Foundation reported in December that California has the [third-worst business tax climate](#) in the nation, topping only New Jersey and New York.

Polls indicated that individuals also find the state too expensive, as a survey released in July by the University of California system reported that nearly half of Californians said they are considering leaving the state. A Public Policy Institute of California poll released in November found that more than 20 percent of Californians are seriously considering moving to another state because of the lack of well-paying jobs here.

Headline-generating moves to lower-cost states in 2021 included:

- Tesla Inc. moved its headquarters from Palo Alto to Austin, Texas, where it is building a large manufacturing complex. Chief Executive Officer Elon Musk moved his personal residence from California to Texas in 2020.
- Johnson & Johnson is permanently closing a South San Francisco facility that houses several divisions and is relocating 73 jobs out of California.
- Personal shopping service Stitch Fix is shutting down a South San Francisco distribution warehouse and permanently cutting 162 jobs at the site, and plans to create 400 jobs in Salt Lake City, Utah.
- Canyon Partners LLC, a \$24 billion hedge fund based in Los Angeles, is expanding in Dallas, Texas.

- AB&I Foundry, a scrap metal business that has operated in east Oakland since 1906, will move approximately 100 jobs to Texas.
- StemExpress, a Folsom-based company that specializes in stem cell collection for medical research, expanded in Nevada with a new 52,000-square-foot facility in Reno.
- Invitae Corporation, a medical genetics company founded 11 years ago in San Francisco, plans to build a major testing and laboratory facility in Morrisville, North Carolina, creating 374 jobs and investing \$114.6 million.
- Puroast Coffee Co. is moving its headquarters from California to North Carolina, where it plans to create 44 jobs over the next two years.
- Snowflake Inc., a cloud data analytics business, announced in May that it is no longer headquartered in San Mateo, instead designating a location in Bozeman, Montana, as its new “principal executive office” for purposes of the Securities and Exchange Commission.
- Real estate referral company Homelight is moving its headquarters from San Francisco to Scottsdale, Arizona.
- Knife manufacturer Cangshan Cutlery is leaving Chino for a new facility in Leander, Texas.
- The Specialty Food Association, which hosts an annual winter food show, is moving its three-day 2022 event from its traditional home at the Moscone Center in San Francisco to the Las Vegas Convention Center.
- Fast, a financial technology firm based in San Francisco, is planning a hiring spree in Tampa, Florida, and its chief executive officer is moving his family to Tampa.

Gene Simmons, bass player for the legendary rock band KISS and owner of numerous business enterprises, was one of the most prominent individuals to depart California. Simmons and his wife, model and actress Shannon Tweed Simmons, left Beverly Hills and moved their official residence to the Nevada side of Lake Tahoe.

Unemployment Insurance Problems Continue

The prior year’s problems at the Employment Development Department (EDD), the agency responsible for administering the employer-funded unemployment insurance (UI) system, continued in 2021. The department acknowledged early in the year that 9.7 percent of the 19.5 million unemployment insurance claims it had paid since March 2020 were fraudulent, and said an additional 17 percent were under investigation for possible fraud. That works out to \$11.4 billion in confirmed fraud and an additional \$20 billion in possible fraud.

EDD officials were blasted by legislators from both parties during hearings held at various times during the year, but the Legislature did not step in to assist employers by using a portion of the state surplus to bolster the UI fund. The EDD reported that the fund would end 2021 with a \$20.2 billion deficit, and employers will be forced to pay higher employment taxes to repay federal loans used to continue providing benefits to unemployed Californians.

Government Waste and Misbehavior Make Headlines

As seems to be the case every year, there were numerous reports in 2021 of wasteful spending and improper behavior by government workers and elected officials. Prominent examples included:

- A state worker in the Office of AIDS pleaded guilty to wire fraud in relation to a scheme to divert at least \$2 million in tax dollars from the California Department of Public Health.
- The state wasted more than \$1.6 million because of lax management of employees – including two California State University employees who spent up to 16 hours each week teaching at community colleges while also being paid to perform their state university work – State Auditor Elaine Howle reported.
- The \$50 million MyTurn website created by the state government to be a “one-stop shop” for getting COVID-19 vaccination appointments and information “has instead created nonstop problems,” *CalMatters* reported in April.
- More than 100 taxpayer-funded camper trailers intended to house homeless people in Los Angeles are sitting unused, *CBS Los Angeles* investigative reporter David Goldstein revealed in May. The trailers cost taxpayers almost \$40,000 each.
- San Francisco Mayor London Breed in August agreed to pay a \$22,792 city fine for violating ethics laws and using her office for personal gain.
- Los Angeles City Council Member Mark Ridley-Thomas – a former state lawmaker and county supervisor who serves as co-chair of Governor Gavin Newsom’s Council of Regional Homeless Advisors – was indicted October 13 on federal conspiracy, bribery, mail fraud, and wire fraud charges.

Internal Battles and Scandal at the SEIU

The executive director of the Service Employees International Union (SEIU) California – a 700,000-member union that has backed numerous tax increases over many decades – was charged with tax evasion and embezzling, and a former high-ranking official in the union’s Los Angeles chapter was suspended for six months without pay from his state job after an investigation found he had committed \$44,000 worth of timesheet fraud.

The SEIU’s tumultuous year also included a battle over the leadership of its influential Local 1000. In June, Richard Louis Brown was elected president of Local 1000 after campaigning on a platform to halt spending on politics, cut union dues in half, and “run Gavin Newsom out of office one way or another.” Brown, an analyst in the State Treasurer’s Office, was elected with approximately 33 percent of the vote in a five-candidate race. Yvonne Walker, who had served in the position since 2008, received 27 percent of the vote. Of the chapter’s 96,000 members, 7,880 participated in the election.

Before Brown took office, Local 1000’s Board of Directors called for an “emergency vote” to approve a \$1 million donation to a campaign opposed to the Newsom recall. In October, the board stripped the leadership position of most of its powers, but Brown said the meeting was illegal and the vote has no force. Brown also posted credit card receipts indicating he used the union’s credit card for some personal expenses.

Odds and Ends

In February, CalTax celebrated our 95th year of advocating for taxpayers and providing tax policy research to Californians and their elected officials. The 95th Annual Meeting was held May 17-19 using technology to host remote meetings with key state lawmakers, State Board of Equalization members, Legislative Analyst Gabe Petek and the CalTax staff. The events marked the second time the association has held its annual meeting remotely due to the pandemic.

The California Tax Foundation on April 15 released the fifth edition of "California Tax Facts: An Overview of the Golden State's Tax Structure," an important reference for taxpayers, elected officials and the media.

Approximately 60 percent of California's likely voters say their taxes are too high, according to a poll released March 30 by the Public Policy Institute of California.

At the start of 2021, the state's minimum wage increased to \$13 per hour for employers with 25 or fewer employees, and \$14 an hour for larger employers. At the beginning of this year, both of those rates increased by an additional \$1 per hour.

The California Citizens Redistricting Commission drew new district lines for the State Board of Equalization, Legislature, and California's congressional districts, based on updated census data. The new districts accounted for the fact that California lost a seat in the U.S. House of Representatives for the first time ever, dropping from 53 seats to 52.

California's governor, state lawmakers, and constitutional officers received a 4.2 percent salary increase in December, based on a vote by the California Citizens Compensation Commission. Rank-and-file legislators receive \$119,700 plus tax-free per diem and other benefits. The governor's salary increased to \$218,500.

California's excise tax on gasoline increased to 51.1 cents per gallon July 1, up from 50.5 cents per gallon, and the tax on diesel fuel increased to 38.9 cents per gallon (up from 38.5 cents). The Tax Foundation of Washington, D.C., reported that California's total state taxes and fees on gasoline reached 63.65 cents per gallon, the highest in the nation.

Inflation became a major issue, as the state reported in August that the California Consumer Price Index (CCPI) for all urban consumers was up 4.4 percent as of June, compared to one year earlier, and inflation continued to increase after that announcement was made.

California had the highest poverty rate in the United States when adjusted to account for government programs designed to help low-income residents, according to a September 14 report from the U.S. Census Bureau. California has 12 percent of the country's population, but is home to 16.5 percent of Americans living in poverty.

California's population decreased in 2021, following the 2020 decrease that marked the first time in state history that population did not go up. The Department of Finance reported in December that the population declined by 173,000 from July 1, 2020, to July 1, 2021, bringing the total population to 39.37 million.

The governor declared a statewide drought emergency and urged Californians to increase water-conservation efforts, prompting renewed discussions of the state's lack of above-ground water

storage and alternatives like desalination plants. Year-end snowstorms created some optimism, however.

Another state was added to California's travel ban list in September, when Attorney General Rob Bonta restricted state-funded travel to Ohio in response to Ohio's legislation that allows medical providers to refuse treatment based on moral or religious beliefs. Ohio joined 17 other states with laws that California objects to.

Changing of the Guard

Several high-profile figures in tax policy announced their retirement in 2021, including: California Chamber of Commerce President and Chief Executive Officer Allan Zaremborg, who had led the organization since 1998 (he was succeeded by Jennifer Barrera); Rex Hime, longtime president of the California Business Properties Association (succeeded by Matthew Hargrove); State Auditor Elaine Howle, who has been in charge of the nonpartisan office responsible for reviewing state and local government agencies and programs for 21 years; Fred Main, a legislative advocate who played a significant role in California's unitary tax reform legislation in the 1980s; David Ginsborg, the deputy assessor of Santa Clara County for the past 24 years (succeeded by Autumn Young); California Public Utilities Commission President Marybel Batjer, who had a major role in the 2017 reorganization of state tax agency responsibilities; Austin Beutner, an advocate of numerous tax increases who had served as superintendent of the Los Angeles Unified School District since 2018 (succeeded by Alberto Carvalho); and Chris Smith, the Franchise Tax Board's longtime trade media liaison (succeeded by Angela Jones).

In Memory

Three major figures in tax policy passed away in 2021: Reed Royalty, founding chief executive officer and former president of the Orange County Taxpayers Association; Martin Helmke, former longtime consultant to the Senate Revenue and Taxation Committee; and Carole Vilardo, who served as president of the Nevada Taxpayers Association for 27 years and often partnered with taxpayer advocates in other states.

Several former state lawmakers, including key figures on tax issues, also died in 2021: Jerry Lewis, Dan Logue, Jim Mills, Willard Murray, Richard Rainey, Pete Schabarum, and Sally Tanner. Former California Supreme Court Justice Cruz Reynoso, who served on the high court from 1982 to early 1987, also passed away.