

The Fast Food Bill That Should be on Everyone's Radar



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Announcer:

Welcome to Paychex THRIVE, a Business Podcast, where you'll hear timely insights to help you navigate marketplace dynamics and propel your business forward. Here's your host, Gene Marks.

Gene Marks:

Hey, everybody and welcome back to Paychex THRIVE. My name is Gene Marks and I am here with Jot Condi. Jot is the President and CEO of the California Restaurant Association, talking to us from Sacramento, and in fact, Jot, just behind you, there's the Capitol building. There we go. I can see it. I know you guys are listening, but people that are watching this on YouTube can actually see. That's his actual office, which is pretty impressive. Jot, thank you so much for joining me.

Jot Condi:

Thanks for having me, Gene.

Gene Marks:

Yup. I'm glad that you are here. First of all, when I hear California Restaurant Association, just to sort of set the table here, that seems like a giant association. I would think in California, there would be a San Francisco, a Los Angeles, a Sacramento, but you represent all the restaurants in the state?

Jot Condi:

Yeah. There's about a little over 100,000 restaurants in California, and certainly, we represent all of them, but our membership is comprised of probably about a quarter of California's restaurants. We're the largest and oldest state restaurant trade group in the country, founded in 1906 by a restaurateur named Al Levy who lived in Los Angeles and got sick and tired of being kicked around by City Hall and gathered about a dozen local restaurant owners and formed what was then the Los Angeles Restaurant Association, and 100 plus years later, here we are.

Gene Marks:

That's really something. It does seem like a giant organization. And Jot, are you a former restaurateur yourself or are you-

Jot Condie:

No, my first job was a --

Gene Marks:

You don't need to be, by the way, to do this.

Jot Condie:

My first job was a dishwasher and some of my first jobs were in the restaurant industry, but never owned a restaurant. My background is a public policy background. Before this job as the CEO, I was the chief lobbyist for the organization, and prior to joining the restaurant industry about 20 years ago, I was a lobbyist for the manufacturing sector. So a lot of oil, automotive manufacturers, aerospace. So I spent a lot of time in that building there lobbying the legislature.

Gene Marks:

Yeah. I believe it. A lot of time in Sacramento. Ok, so we are here to talk about Assembly Bill 257 called the Fast Food Accountability and Standards Recovery Act or the FAST Act, which I know that you and your members absolutely love and completely support. It is the best thing that's ever happened to the restaurant industry in California. I'm being facetious, obviously. Let me ask you, first of all, you need to maintain your emotions here, I need to ask you to just explain what this bill is all about and then we can talk a little bit about the impact that it has on your members. Go ahead.

Jot Condie:

Okay. Well, so it is the top priority apparently of SEIU, which is SEIU International, which is a large two million member union, and they have a large membership in California, I think probably 800,000 SEIU members in California, and certainly, they have an enormous influence in the legislature. For many years, the SEIU and other unions have attempted to organize the quick service sector of the restaurant industry, and this appears to be part of that plan. It's pretty extraordinary, even for California standards. I think it's no secret that California is known for enacting exotic public policy and unfortunately, sometimes those policies spread to other parts of the country. But this one is pretty extraordinary in that it creates this sectoral regulatory structure for one segment of the restaurant industry and essentially gives them, and this council, it's appointed by the legislature and the governor, but they are unelected and unaccountable council members who will have sweeping authority over an entire industry.

Gene Marks:

Let me interrupt you. So just for the layman that may not be familiar with what this bill is, let's walk through what it is. First of all, it's just targeting the fast food part of the restaurant industry in California.

Jot Condie:

Yes.

Gene Marks:

A council is going to be formed of, like you just said, non-elected people, and my understanding is that the council, I forget how many members it would be, but it would supposed-

Jot Condie:

10.

Gene Marks:

How many?

Jot Condie:

10.

Gene Marks:

10. So I was going to say it would be divided. Probably won't be so equal, but there'll be somebody from the political side, there'll be somebody from the industry side, and there'll be somebody theoretically from the employee side as well, and this council, whatever they decide to recommend will pretty much be rubber-stamped by the government, so when it comes to wages, when it comes to safety or health and safety types of things that are needed in the fast food industry. So I described that relatively correctly? Is there anything you wanted to add to that description?

Jot Condie:

Yeah, except for the rubber-stamped part, because you would think that there would be some check because the lawmakers, our elected officials in California, are elected to enact fundamental workplace policy and that's a core part of what they do. And they essentially, by passing this bill, handed that authority over to this council, and so whatever the council does, they can usurp all rulemaking authority over existing worker protection agencies and departments, long-standing regulations, they can amend, eliminate, pass, and whatever they vote on, whatever they approve as a council, becomes essentially the law of the land.

Gene Marks:

It's pretty unbelievable. It's a huge amount of power over a significant industry. Do you know, and if you don't, it's fine, but do you know the breakdown of those 10 seats? Is it-

Jot Condie:

Yeah.

Gene Marks:

How many are-

Jot Condie:

There will be one representative of the Department of Industrial Relations, which is the agency that will house this council. There will be two representatives of the fast food franchisors, two representatives representing franchisees, two representatives representing fast food employees, and then two representatives of advocates for workers. Stated differently, lobbyists for the unions, and then one representative from the governor's, they call it GO-Biz, but it's the Governor's Office of Business and Economic Development.

Gene Marks:

Got it. So let me-

Jot Condie:

So, you have eight lay people who will be dictating workplace policy for an entire sector of the economy.

Gene Marks:

Wait. Eight or 10? I thought we said there was 10.

Jot Condie:

Well, eight lay people. So you have two government officials in that group of 10 and then the rest are essentially volunteers and advocates.

Gene Marks:

Got it. And who appoints this? And again, if you don't know, because this bill was recently passed, so the details aren't still clear, but who will appoint? Can you be on this committee?

Jot Condie:

Yeah, so the governor has the authority to appoint certainly the representative of the Department of Industrial Relations, and then of course, a representative of his GO-Biz unit, and then the speaker of the assembly and the president pro tem of the Senate have the ability to appoint some of the representatives representing the workers. And so it's very political and they serve at the will of the governor and the legislature, so if, let's say, they're not doing what these elected officials want done, they can replace them.

Gene Marks:

Wow. Fair enough. All right.

Jot Condie:

Very political.

Gene Marks:

Okay, so let me play devil's advocate. Fast food industry, it's known for high turnover. It's known for relatively lower wages. Although in California, most places, \$15 an hour is the minimum hourly wage, but relatively has that reputation. And by the way, if you're listening to this or watching this, this conversation isn't just about California. This is something that could easily and probably will spread to other states in the country and could affect your business. So when you think about workers' rights, there's a lot of advocacy for better health and safety conditions and better place for the workers. So, Is that such a bad thing? I guess my question is. Is it such a bad thing to have a committee of people that want to talk about and make sure that this industry is as safe for workers as possible? What are your thoughts on that?

Jot Condie:

No, it's not a bad thing and it's actually a good thing. If you look at California, for the last 30 to 40 years has built the most robust worker protection and worker welfare laws and regulations in the country, if not the world. California is known for that and multiple agencies and departments that are responsible for overseeing worker protection laws. If you just look at that, the work that's been put into creating this very robust enforcement regime, this bill here is an indictment on what the state of California has done for workers over the years. So it just pretty much says, this new council can undo what they've done, so that's sort of a head scratcher that the legislature would give away an extraordinary fundamental obligation that they have as directly elected officials to this unaccountable council to enact laws that are already on the books.

Jot Condie:

California is known for that. I guess the other thing is that they've also identified a sector of the restaurant industry, a sector of the economy, that is probably one of the better actors if you look at enforcement data and penalties. The quick service or fast food sector of the restaurant industry in California accounts for only 1.6% of the violations in the last five years. So they are good actors, and so the premise of this bill, that there needs to be an extra layer of this outsourcing of authority over this sector of the economy, they're picking the wrong sector of the economy.

Gene Marks:

Right. It's excellent points. It's excellent points. Let's talk about wages. As I mentioned earlier, I think California's minimum wage is \$15 an hour. Correct?

Jot Condie:

It's \$15 an hour. January 1, it'll go to 15.50. The state law says, if inflation goes over a certain benchmark, that the governor has to-

Gene Marks:

It gets adjusted.

Jot Condie:

... jump it. So January 1, it'll be 15.50.

Gene Marks:

However, this bill, this FAST Act, can enable this industry to actually have a higher minimum wage than that \$15 an hour. As much as, I think, \$22 an hour people are talking about. Can you explain that?

Jot Condie:

Yeah. I guess I should say also that the law is slated to take effect January 1, but there is an ongoing effort right now to referend this, to put this before the voters, and there's an effort to collect signatures and the deadline to turn those roughly a million signatures that will need to be turned in by December 5, and I think that will happen. If that happens, then this law is put on pause until it appears before the voters in November of 2024.

Gene Marks:

Okay.

Jot Condie:

But let's say it takes effect January 1. This council will need to do an assessment of the working conditions in the industry, and they do have the authority to raise the minimum wage up to \$22 an hour starting January of 2023, so in several months. So they do have that authority.

Gene Marks:

And many of the franchise operators and the fast food operators of the industry are worried that that is going to happen at some point. It might not happen immediately, but inevitably, and therefore, some of them are saying, "That's going to push our costs out of control, and ultimately it's going to be the consumers that pay," because these people, Hardee's and In-N-Out Burger and McDonald's and Burger, they're not going to go out of business, these people. They're not just going to shut their doors. They're just going to pass these costs down to consumers. So is that what you expect to happen as well?

Jot Condie:

Absolutely. In fact, we had an economic analysis done by Beacon Economics, and this was several months ago, and essentially their findings were that for this category of restaurants, the cost of a meal would go up approximately 20%. We've done some research with Californians and voters and you talk to them about the impacts here. They're not supportive of this policy. I think they look at it as like it's a little crazy.

Gene Marks:

Right. So Jot, listen, you represent the industry. You know the industry's pros, you know the challenge that they're dealing with as well. If you were asked to come up with a better solution to something like this, even starting at the drawing board, what would you say? Do you think a solution is needed, and if one is, tell me what you think?

Jot Condie:

It's sort of like a solution in search of a problem. That's what it feels like, given their targeting of one of the better performers as it relates to labor law compliance in California. There's been a number of suggestions

by many in the labor community that California has a backlog of penalties and back wages for employees who've been wronged and this, therefore, is the answer to that. Well, the answer is, the laws on the books and the protection standards that exist today for California's workers are second to none. The problem is that the state needs to fill those positions and enforce the laws that are on the books and the state is having challenges finding enough people to fill a lot of these vacancies. But that's the answer. The answer is to fully fund these departments and aggressively hire and perhaps provide better pay for these state workers because they're competing with jobs in the Silicon Valley.

Jot Condie:

So, the state needs to look at that, but to entice people to come work for the state in some of these important jobs. That's the answer. It's not creating a new mouse trap that will turn on its head the existing worker protection structure in California. Because the fact is that if this law were to take hold, it would be only a matter of time before this sectoral regulating structure would expand to other sectors of the economy. Certainly, any kind of business that is franchised, restaurants or dry cleaners or mailbox, et cetera, whatever, will likely be in the cross hairs of an expansion here, and then you can just go into the retail sector and many other sectors of the economy are likely next.

Gene Marks:

This is going to air after you go to this meeting, but you told me next week, you're going to be going to the Council of State Retirement Associations.

Jot Condie:

Council of State Restaurant Association.

Gene Marks:

Sorry, Restaurant Associations. My God. See, I'm 57 years old. That's what's on my mind right now.

Jot Condie:

[laughing]

Gene Marks:

I'm just kidding. Council of State Restaurant Associations, of course, which is an association of associations. These are all your like-minded people. You have the Utah Restaurant Association, Pennsylvania Restaurant Association, all of that, and you're going to be talking to them and reporting to them on what's going on in California. What are you going to say? What red flags are you're going to raise?

Jot Condie:

Beware, watch how this unfolded and is unfolding in California. Learn some of the lessons that we learned through the process as this bill was being punched through the legislature by the unions and engage now. Start engaging your lawmakers and educating them about the potential damage a law like this could do. I read in the newspaper a few weeks ago, I think there was an interview with Mary Kay Henry who is the President of SEIU International, and she suggested that Illinois and New York were next. So I don't know if that's part of their plan, but naturally, you could look at states like Washington and Oregon here on the left coast that are very much like California in terms of the political environment, the worldview of the voters. And so I could see something like this spreading to those states.

Gene Marks:

Jot Condie is the President and Chief Executive Officer of the California Restaurant Association, not the California Retirement Association. I want to be completely clear on that. The California Restaurant Association. Jot, it's a great conversation. We're going to be following this very closely. I'm going to be

writing about this more as well. It's an interesting development. I hope it does go to referendum as what you're hoping as well. And you seem fairly confident that it will? You think you'll get enough signatures?

Jot Condie:

It is a campaign being essentially, the leaders in this effort are the U.S. Chamber of Commerce, the National Restaurant Association, the International Franchise Association, and I think these are national organizations who see that if this isn't stopped in California, it can spread. What I hear is that they are likely to get those signatures and qualify this in time. It's a high risk, high reward proposition because I'll tell you that the lawmakers that voted for this bill, California has a super majority of Democrats in both houses, this barely passed. It passed by the bare minimum votes needed. So you have 19 Democrats in the assembly and nine Democrats in the Senate that didn't vote for this.

Jot Condie:

So, there's some bipartisan opposition here, and I think the voters, when they get a chance to decide on this, may send a message to the lawmakers they got this wrong. On the other hand, if the voters affirm this law, I think that green lights for our legislature that now the voters support this policy. Even though you are uncomfortable with giving away a fundamental authority of yours, now you've got the green light to expand it, and I think that also sends a message to other interests in other states that this thing's ready for primetime, which is why it's so important that we educate the voters on the damage this will do.

Gene Marks:

Jot Condie, President and CEO of the California Restaurant Association. Jot, thank you so much for joining me. That was very informative and educational. My name is Gene Marks. You guys have been listening to the Paychex Thrive podcast. Thanks so much for joining us. Do you have a topic or a guest that you would like to hear on Thrive? Please let us know. Visit payx.me/thrivetopics and send us your ideas or matters of interest. Also, if your business is looking to simplify your HR, payroll, benefits, or insurance services, see how Paychex can help. Visit the resource hub at paychex.com/worx. That's W-O-R-X. Paychex can help manage those complexities while you focus on all the ways you want your business to thrive. I'm your host, Gene Marks and thanks for joining us. Till next time, take care.

Announcer:

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