What Employers Need to Know as California Passes New Blockchain Law But Declines Broader Regulation – For Now

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California just passed a new law that will continue to keep the state front and center when it comes to the continued adoption of blockchain technology. However, at the same time, Governor Gavin Newsom vetoed broader legislation that would have established a licensing and regulatory framework for digital financial assets. What do these developments signal for California employers?

New Vital Records Law

Governor Newsom recently signed a bill permitting county recorders to issue a certified copy of a birth, death, or marriage certificate by means of a verifiable credential using blockchain technology. Senate Bill 786, which goes into effect on January 1, 2023, will require a county recorder that issues such documentation to "ensure that the release of the copy is subject to technical safeguards sufficient to prevent fraud, and to protect the document and its contents from unauthorized or illegal access, destruction, use, modification and disclosure."

The legislative history of SB 786 discusses a 2020 report from the California blockchain working group that recommended that the state consider using blockchain technology in the areas of vital records. Committee analyses of SB 786 also noted that county recorder offices on other states (including Cook County in Illinois and Washoe County and Elk County in Nevada) have authorized or piloted the use of blockchain in vital records.

Governor Vetoes Broader Crypto Licensing Bill

While the governor signed SB 786, he also vetoed broader legislation (Assembly Bill 2269) which would have required digital asset companies to obtain a license to offer their services or assets to California residents. His veto message noted a previous Executive Order he had signed (which we discussed here) to establish a transparent regulatory environment for digital assets.

Expressing concerns with AB 2269, he noted:

> "It is premature to lock a licensing structure in statute without considering both this work and forthcoming federal actions. A more flexible approach is needed to ensure regulatory oversight can keep up with rapidly evolving technology and use cases, and is tailored with the proper tools to address trends and mitigate consumer harm.

> Additionally, standing up a new regulatory program is a costly undertaking, and this bill would require a loan from the general fund in the tens of millions of dollars for the first several years. Such a significant commitment of general fund resources should be considered and accounted for in the annual budget process.
>
> I am committed to working collaboratively with the Legislature to achieve the appropriate regulatory clarity once federal regulations come into sharper focus for digital financial assets, while ensuring California remains a competitive place for companies to invest and innovate."

What This Means for Employers

These developments illustrate that California is eager to lead the way when it comes to the identification and adoption of substantive uses cases for blockchain technology and digital assets, as we discussed more thoroughly in another recent Insight. California state and county agencies adopting the use of blockchain technology and "leading by example" could be a powerful incentive for businesses and employers with operations to explore this emerging trend.

But while the state is moving forward aggressively in some areas, in other areas the state is being more cautious and looking to federal conformity. California policymakers are being thoughtful about broader regulatory issues involving digital assets, which makes sense given the complicated regulatory relationship between state and federal regulators.

Long-term, getting this "right" could be a real benefit to businesses and employers in California if the state can harmonize state and federal regulation of this growing area – especially with respect to cryptocurrency or crypto assets. Regulatory uncertainty is one of the largest challenges to the push for mass adoption and having one comprehensive set of federal and state rules for operation could further enhance your businesses willingness to incorporate blockchain technology into their operations.

Conclusion

We'll continue to monitor developments in this area, so make sure you are subscribed to Fisher Phillips' Insight System to get the most up-to-date information. If you have any questions, please contact your Fisher Phillips attorney, the authors of this Insight, or any attorney in our Cryptocurrency and Blockchain Practice Group.

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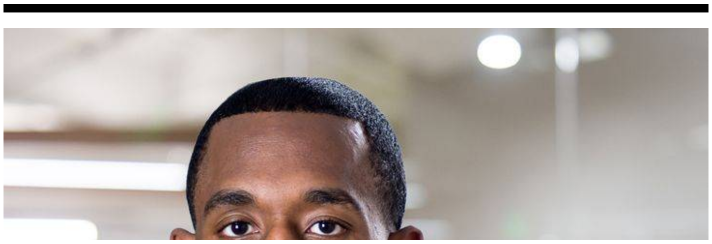

Phillip C. Bauknight
Partner
908.516.1059
Email

Benjamin M. Ebbink
Partner
916.210.0400
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