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2013 Legislative Developments

An Employer's Guide to New Bills Affecting Rights and Obligations in the Workplace

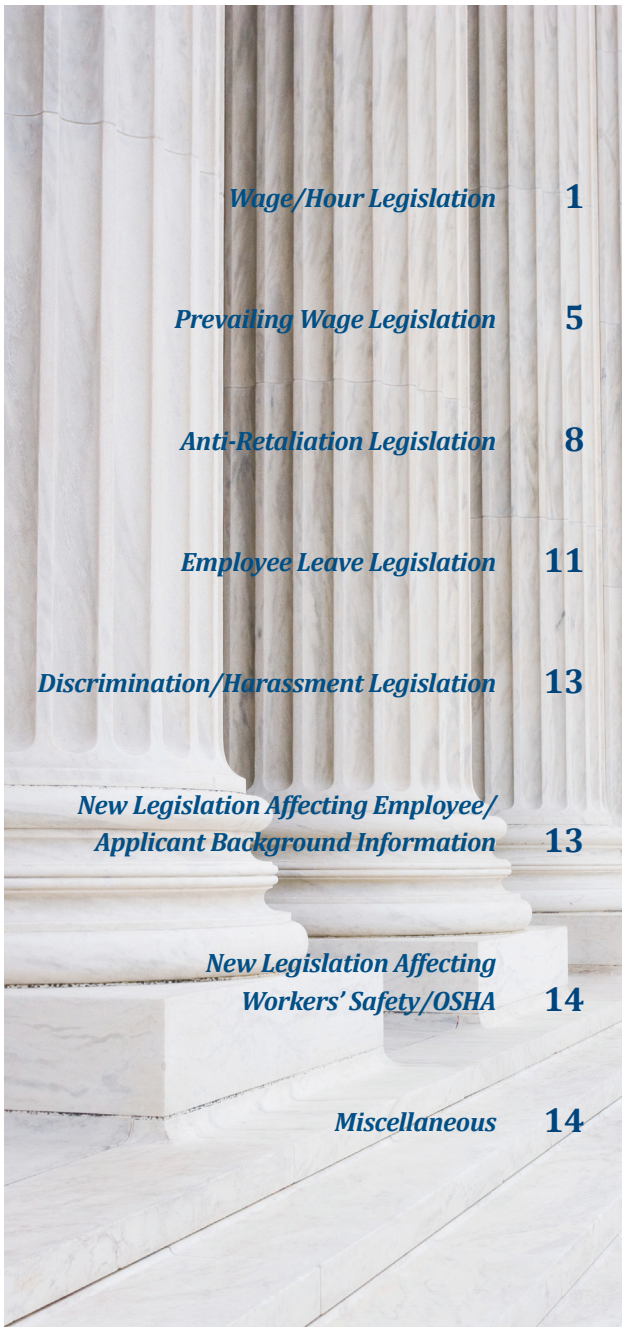
By David W. Tyra and Catherine V. Nystrom

I. Wage/Hour Legislation

A. AB 10 (Alejo) – Minimum Wage

This legislation amends section 1182.12 of the Labor Code by increasing the minimum wage to not less than $9 an hour beginning July 1, 2014, and to not less than $10 an hour beginning January 1, 2016.

Comment: In addition to impacting the basic minimum wage, this legislation also affects the minimum monthly salary for most exempt employees. As expressed in the wage orders issued by the Industrial Welfare Commission, the minimum monthly salary for employees for whom an exemption is claimed under the executive, administrative, and professional exemptions (with certain express exemptions, e.g., the computer professional exemption) is an amount "equivalent to no less than two (2) times the state minimum wage for full-time employment." (Full-time employment is defined as 40 hours a week.) At $9 an hour, this means the minimum monthly salary for exempt employees is $3,120 or $37,440 annually. At $10 an hour, this rises to $3,466.67 monthly or $41,600 annually.



B. AB 241 (Ammiano) – Domestic Worker Bill of Rights

This legislation adds Part 4.5 (commencing with section 1450) to Division 2 of the Labor Code, to be known and cited to as the Domestic Worker Bill of Rights, and repeals current section 1454 of the Labor Code. The legislation regulates the hours of work of domestic work employees who work as personal attendants by providing an overtime compensation standard for those employees.

"Domestic work" is defined as services related to the care of persons in private households or maintenance of private households or their premises, including childcare providers, caregivers of people with disabilities, sick, convalescing, or elderly persons, house cleaners, housekeepers, maids, and other household occupations. The legislation excludes from the definition of "domestic work" care of persons in licensed facilities such as nursing homes or childcare facilities.

A "domestic work employee" is defined as any individual who performs domestic work, including live-in domestic employees and personal attendants. It excludes family members, casual babysitters, and persons employed in licensed facilities.

Finally, a "personal attendant" is defined as any person employed by a private householder or any person employed by a third-party employer "recognized in the health care industry" to work in a private household, to supervise, feed, or dress a child or a person who because of advanced age or disability needs supervision.

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The status of personal attendant does not apply when no significant amount of work other than the foregoing is required. "No significant amount of work" means work other than duties as a personal attendant did not exceed 20 percent of the total weekly hours worked.

As a result of this legislation, a domestic work employee who is a personal attendant must be paid one and one-half times their regular rate of pay for any work performed in excess of nine hours in any workday or 45 hours in any workweek.

The new law expires on January 1, 2017 unless extended by the Legislature. In the meantime, it requires the Governor to convene a committee to study and report on the new code section's effects.

Comment: Domestic work employees currently are covered under IWC Wage Order No. 15, Household Occupations. That wage order provides standard minimum wage and overtime protections for employees engaged in domestic work, but contains an overtime exemption for personal attendants. This legislation effectively repeals that exemption by providing a statutory overtime standard for domestic work employees who work as personal attendants.

C. AB 442 (Nazarian) – Penalties Relating to Payment of Wages

This legislation amends sections 1194.2 and 1197.1 of the Labor Code by expanding the availability of liquidated damages in an action brought as a result of an employer's failure to pay the state minimum wage. Currently liquidated damages are not mentioned as an item of recovery available in an action brought under section 1197.1. Under this legislation, liquidated damages, in addition to unpaid wages, civil fines, and penalties, are recoverable against an employer or any person acting either individually or as an officer, agent, or employee of an employer who fails to pay wages at least equivalent to the state minimum wage.

D. AB 1386 (Committee on Labor and Employment) – Liens

This legislation amends section 98.2 of the Labor Code to provide that, as an alternative to a judgment lien that results when an order issued by the Labor Commissioner becomes final in the superior court, a lien on real property owned by an employer may be created by the Labor Commissioner and recorded with the county recorder of any county in which the employer's property may be located. The lien recorded by the Labor Commissioner must conform to other liens on real property. The lien created by this legislation continues on the employer's real property for 10 years from the date of creation unless it is satisfied or released. The county recorder is required to accept, record, and index the certificate of lien.

E. SB 168 (Monning) – Farm Labor Contractors

This legislation adds section 1698.9 to the Labor Code establishing successor liability for farm labor contractors when the predecessor

farm labor contractor owed wages or penalties to a former employee of the predecessor. Successor liability exists if the successor farm labor contractor meets one or more of the following criteria: (1) the successor uses substantially the same facilities and workforce as the predecessor; (2) the successor shares in the ownership, management, control of the workforce, or interrelations of business operations of the predecessor; (3) the successor employs in a managerial capacity any individual who directly or indirectly controlled the wages, hours, or working conditions of the employees owed wages or penalties by the predecessor; or (4) the successor is an immediate family member of any owner, partner, officer, licensee, or director of the predecessor or of any person who had a financial interest in the predecessor.

F. SB 390 (Wright) – Failure to Remit Withholdings

This legislation amends section 227 of the Labor Code by making it a criminal offense for an employer to fail to remit to the proper governmental agency any withholdings from an employee's wages required to be made pursuant to local, state, or federal law, or any withholdings the employer has agreed with an employee to make for payments to employee benefit funds. Violation of the statute when the amount the employer failed to remit exceeds $500 is punishable by imprisonment in county jail for not more than one year, by fine not to exceed $1,000, or both. All other violations are punishable as a misdemeanor.

G. SB 435 (Padilla) – Meal and Rest or Recovery Periods

This legislation amends section 226.7 of the Labor Code. Existing law prohibits employers from requiring employees to work during meal or rest periods, and provides an employee an additional one hour of pay for each workday the employee fails to receive a meal or rest period. The additional hour of pay imposed by section 226.7 is expanded by this legislation to also apply to "recovery periods" mandated by law. The term "recovery period" is defined as the "cool down period afforded an employee to prevent heat illness."

H. SB 462 (Monning) – Employee Actions Brought in Bad Faith

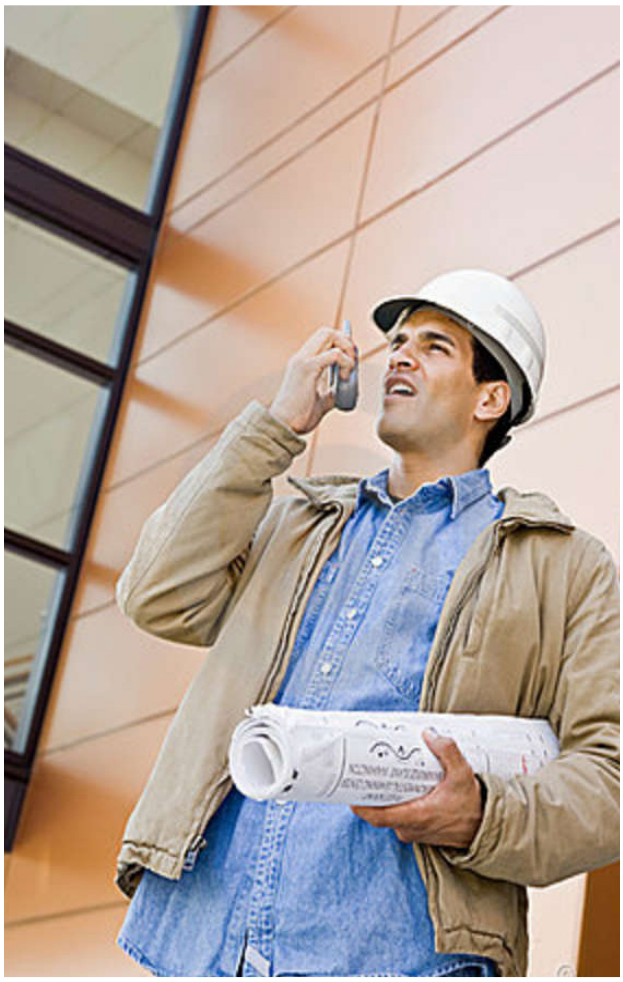
This legislation amends section 218.5 of the Labor Code by providing that if the prevailing party in an action brought for recovery of nonpayment of wages, fringe benefits, or health and welfare or pension contributions is not an employee, prevailing party attorney's fees and costs may be awarded only if the court finds the employee brought the action in bad faith.

II. Prevailing Wage Legislation

A. AB 1336 (Frazier) – Prevailing Wage Assessments and Actions

This legislation amends sections 1741, 1771.2, and 1776 of the Labor Code by changing the deadline for service of wage and penalty assessments by the Labor Commissioner on public works projects from the current 180 days following the filing of a notice of completion or acceptance of the public work to a date not later than 18 months after the filing of a valid notice of completion in the office of the county recorder in each county in which the public work, or part thereof, was performed, or not later than 18 months after the acceptance of the public work, whichever occurs last. The legislation also deletes the corresponding provisions that currently apply to an assessment served after the expiration of the 180-day period.

The date by which any action by a joint labor-management committee to enforce prevailing wage requirements must be filed also is changed from the current 180 time limit to the same 18-month standard explained above. The legislation specifies that in an action brought by a joint labor-management committee against an employer for failure to pay the prevailing wage to its employees, the court shall award restitution to an employee for unpaid wages plus interest, liquidated damages equal to the amount of the unpaid wages, and may impose civil penalties and injunctive or other appropriate forms of equitable relief. A joint labor-management committee that prevails



in such an action is entitled to recovery of its reasonable attorney's fees and costs including expert witness fees.

Finally, this legislation changes the permissible modifications to payroll records kept for inspection by public works contractors. Currently, payroll records disclosed to a joint labor-management committee are must be redacted to prevent disclosure of employees' names and social security numbers. The legislation permits redaction of only the employees' social security number.

B. SB 7 (Steinberg) – Charter Cities

This legislation adds section 1782 to the Labor Code. It prohibits a charter city from receiving or using state funding or financial assistance for a construction project if the city has a charter provision or ordinance that authorizes a contractor not to comply with prevailing wage provisions on any public works contract.

Charter cities also are prohibited from receiving or using state funding or financial assistance for a construction project if, within the prior two years, the city awarded a public works contract without requiring the contractor to comply with prevailing wage provisions.

On the other hand, charter cities may receive or use state funding or financial assistance if the city has a local prevailing wage ordinance, applicable to all of its public work contracts, that includes requirements that are equal to or greater than the state's prevailing wage requirements.

Contracts for projects of $25,000 or less for construction work, or projects of $15,000 or less for alteration, demolition, repair, or maintenance work are not "public works contracts" for purposes of this section.

The legislation does not restrict charter cities from receiving or using state funding or financial assistance that was awarded prior to January 1, 2015, or from receiving or using state funding or financial assistance to complete a contract that was awarded prior to January 1, 2015. Charter cities are not disqualified from receiving or using state funding or financial assistance for its construction projects based on the city's failure to require a contractor to comply with prevailing wage provisions in performing a contract the city advertised for bid or awarded prior to January 1, 2015.

As part of this legislation, the Legislature adopted extensive findings and declarations stating, among other things, that "the state's prevailing wage law promotes the creation of a skilled construction workforce" and that "charter cities that require compliance with the prevailing wage law on their municipal projects are furthering a state policy that has substantial benefits that go beyond the limits of the city." On the basis of these and other findings, the Legislature expressed its intent that new Labor Code section 1782 "is to provide a financial incentive for charter cities to require contractors on their municipal construction projects to comply with the state's prevailing wage law by making these charter cities eligible to receive and use state funding or financial assistance for their construction projects. State funding or financial assistance for charter city construction projects makes up only a small portion of charter city budgets, and charter cities have the power to raise other revenues if they do not wish to require the payment of prevailing wages on all their municipal construction projects."

C. SB 377 (Lieu) – Public Works Project Determinations

This legislation amends section 1773.5 of, and adds section 1741.1 to, the Labor Code. When a request is made to the Director of Industrial Relations as to whether a specific

project or type of work awarded or undertaken by a political subdivision is a public work, this legislation requires the director to make a determination within 60 days of receipt of the last support or opposition letter. For projects or types of work that are otherwise private development projects that receive public funds, the director must make this determination within 120 days of receipt.

Any administrative appeal of the director's determination must be made within 30 days of the date of the determination, after which the director has 120 days to issue a determination on the appeal. The director is granted quasi-legislative authority to determine coverage of projects or types of work under prevailing wage requirements; however, a final determination on any appeal is subject to judicial review. This legislation exempts these determinations, as well as determinations relating to the general prevailing rate of per diem wages and for holiday, shift, and overtime work, from the Administrative Procedure Act.

The period for service of assessments, and for commencing an action brought by a joint labor-management committee, is tolled for the period of time required by the director to make the determination as to whether a project is a public work. The legislation also tolls those periods for the period of time that a contractor or subcontractor fails to provide certified payroll records pursuant to a request from the Labor Commissioner, a joint labor-management committee, or an approved labor compliance program. The legislation further requires the person filing the notice of completion provide notice to the Labor Commissioner and also requires the awarding body or political subdivision accepting a public

work to provide the Labor Commissioner with notice of acceptance. Finally, the legislation tolls the period for service of assessments and for commencing an action brought by a joint labor-management committee for the length of time notice is not provided to the Labor Commissioner.

D. SB 776 (Corbett) – Employer Payment Credits

This legislation amends section 1773.1 of the Labor Code. Per diem wages for purposes of the prevailing wage law are defined as including payments made by employers for health and welfare benefits, pensions, vacation, travel, subsistence, apprenticeship programs, and various administrative and other fees. Employer payments include rates of contributions for these benefits made irrevocably to a trustee or third person pursuant to a plan, fund, or program. These payments constitute a credit against the employer's obligation to pay the general prevailing rate of per diem wages, but such credits do not reduce the obligation to pay the hourly straight time or overtime wages found to be prevailing. Increases in payments that result in lower straight time or overtime wages shall not be considered a violation of the applicable prevailing wage if: (1) the increased payment is made pursuant to criteria set forth in a collective bargaining agreement; (2) the basic hourly rate and increased employer payment are no less than the general prevailing rate of per diem wages; and (3) the employer payment contribution is irrevocable unless made in error.

This legislation now allows employers to take credit for such payments even if not made during the same pay period the credit is taken, so long as the employer regularly makes such payments on no less than a quarterly basis.

III. Anti-Retaliation Legislation

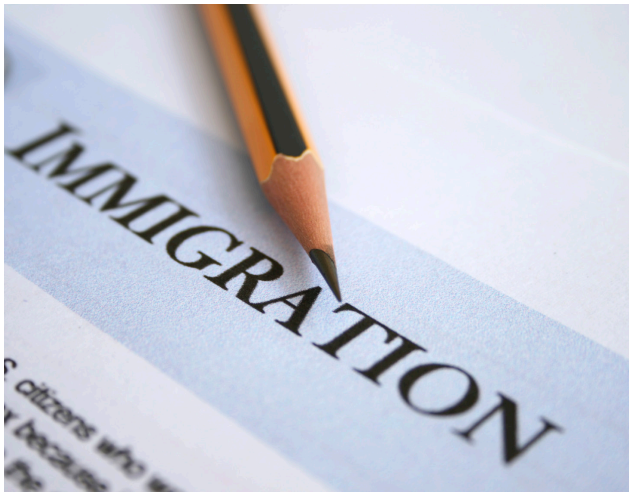
A. AB 263 (R. Hernandez) – Retaliation and Immigration-Related Practices

This legislation amends sections 98.6, 98.7, 1102.5, and 1103 of the Labor Code, and adds section 1024.6, as well as Chapter 3.1 (commencing with section 1019) to Part 3 of Division 2 of the Labor Code. It expands existing prohibitions regarding retaliation against employees for engaging in protected conduct by including within the definition of protected conduct written or oral complaints by an employee who believes he or she is owed unpaid wages. Employees who are retaliated against, or who are otherwise subjected to an adverse action, as a result of engaging in such protected conduct are entitled to reinstatement and reimbursement for lost wages. Individuals in violation of these provisions are subject to a civil penalty of up to $10,000 per violation. In order to bring an action for violation of these anti-retaliation provisions, an employee is not required to exhaust administrative remedies.

This legislation also makes it unlawful for an employer to engage in an unfair immigration-related practice for the purpose of, or with the intent of, retaliating against any person for exercising a protected right. "Exercising a protected right" includes, but is not limited to, such things as filing a complaint or informing any person of an employer's violation of the

law, seeking information regarding whether an employer or other party is in compliance with the law, or informing a third person of his or her legal rights.

An "unfair immigration-related practice" means any of the following practices: (1) requesting more or different documents than are otherwise required for the I-9 process or refusing to honor documents presented that "on their face



reasonably appear to be genuine;" (2) using the federal E-Verify system to check employment authorization status of a person at a time or in a manner not required by federal law or not authorized under any memorandum of understanding governing the use of the E-Verify system; (3) threatening to file or filing a false police report; or (4) threatening to contact immigration authorities.

There is now a rebuttable presumption that an unfair immigration-related practice was taken for the purpose of retaliating against a person for the exercise of a protected right if it was committed within 90 days of the exercise that right.

Under this legislation, an employee or other person who is subject to an unfair immigration-related practice may bring a civil action for equitable relief, damages, penalties, and prevailing party attorney's fees. Furthermore, upon a first violation of the prohibitions against unfair immigration-related practices, the court may order government agencies to suspend all licenses held by the employer at the location where the conduct occurred for a period of 14 days. In determining whether suspension of all licenses is appropriate, the court is required to consider whether the employer knowingly committed an unfair immigration practice, the good faith efforts of the employer to resolve any alleged unfair immigration-related practice after receiving notice of the violations, as well as the harm other employees of the employer will suffer from the suspension of all licenses. For second and third offenses, license suspensions may be for a period of up to 30 and 90 days, respectively. Licenses subject to suspension pursuant to this legislation do not include professional licenses.

In addition to the above, this legislation also prohibits an employer from discharging an employee or in any manner discriminating, retaliating, or taking adverse action because the employee updates or attempts to update his or her personal information unless the changes are directly related to the skill set, qualifications, or knowledge required for the job.

Finally, the legislation expands the prohibition

contained in Labor Code section 1102.5 on employer retaliation relating to employee disclosure of information to, or testimony before, a government or law enforcement agency to prohibit any person acting on behalf of the employer from making a rule or policy that prevents an employee from disclosing information to, or testifying before, a government or law enforcement agency.

B. SB 496 (Wright) – Whistleblower Protection and Anti-Retaliation Protections

This legislation amends sections 905.2 and 19863 of the Government Code, adds section 8547.15 to the Government Code, and amends section 1102.5 of the Labor Code.

This legislation creates a general exception to the requirement of filing a claim under the Government Claims Act as a prerequisite to bringing a suit against the state for actions involving alleged violations of the California Whistleblower Protection Act, Government Code section 8547, et seq.

This legislation also make changes to Labor Code section 1102.5 in addition to those made pursuant to AB 263 above. While existing law prohibits an employer from making, adopting, or enforcing any rule, regulation, or policy preventing an employee from disclosing information to a government or law enforcement agency regarding an employer's violation of a state or federal statute, that prohibition is expanded to protect the disclosure of information by an employee to a person with authority over the employee or to another employee who has authority to investigate, discover, or correct the violation or noncompliance, if the employee has reasonable cause to believe that the information discloses a violation of a state or federal statute, or a violation of, or noncompliance with, a local, state, or federal rule or regulation, regardless of whether disclosing the information is part of the employee's job duties.

In addition, section 1102.5 is amended to prohibit not only retaliation by an employer against an employee who actually discloses information to a government or law enforcement agency, but also to prohibit retaliation when the employer believes the employee has or may have disclosed information to a government or law enforcement agency, to a person with authority over the employee, or to another employee who has the authority to investigate, discover, or correct the violation or noncompliance if the employee has reasonable cause to believe the information discloses a violation of a state or federal statute or a local, state, or federal rule or regulation regardless of whether disclosing the information is part of the employee's job duties.

C. SB 666 (Steinberg) – Anti-Retaliation Protection

This legislation adds sections 494.6 and 6103.7 to the Business and Professions Code, amends sections 98.6 and 1102.5 of the Labor Code, and adds section 244 to the Labor Code. This legislation subjects business licenses to suspension or revocation if the licensee has reported or threatened to report the immigration status of an employee, former

employee, prospective employee, or a family member of any of the above in retaliation for the individual's exercise of legally protected rights. Before ordering the suspension or revocation of any business license, the court or Labor Commissioner is required to consider any harm such suspension or revocation will have on the employees of the licensee as well as the good faith efforts of the licensee to resolve any alleged violations after receiving notice of them.

Additionally, the legislation makes it a cause for suspension, disbarment, or other discipline for any member of the State Bar to report the immigration status or threaten to report the immigration status of a witness or party to a civil or administrative action or his or her family member to a federal, state, or local agency because the witness or party exercises or has exercised a right related to his or her employment.

Adverse actions under this legislation include reporting or threatening to report an employee or employee's family member's suspected citizenship or immigration status to a government agency because the employee exercised a designated right. In order to bring an action for proscribed acts of retaliation or adverse actions, it is not necessary to exhaust administrative remedies or procedures.

Like AB 293, this legislation prohibits an employer from retaliating or taking any adverse action against an employee or applicant because the individual engaged in protected conduct. Protected conduct includes written or oral complaints by an employee who believes he/she is owed unpaid wages. This legislation subjects an employer to a civil penalty of up to $10,000 per violation. In addition, an employee who is retaliated against or subjected to an adverse action because the employee exercised a protected right may bring an action for reinstatement and reimbursement for lost wages and benefits.

Consistent with AB 293 and SB 496, this legislation amends Labor Code section 1102.5 to prohibit not only an employer, but any person acting on behalf of the employer, from making, adopting, or enforcing any rule, regulation, or policy that prevents an employee from disclosing information to, or testifying before, a government or law enforcement agency and retaliating against an employee for such a disclosure.

Comment: The various amendments to Labor Code section 1102.5 made by AB 293, SB 496, and SB 666, were dependent on all three bills being chaptered into law. Because all three were chaptered, all amendments to section 1102.5 made by the three bills will go into effect.

IV. Employee Leave Legislation

A. AB 11 (Logue) – Reserve Peace Officers and Emergency Rescue Personnel

This legislation amends section 230.4 of the Labor Code by requiring employers who employ 50 or more employees to permit an

employee who performs emergency duty as a volunteer firefighter, reserve peace officer, or as emergency rescue personnel, to take temporary leaves of absence not to exceed an aggregate of 14 days per calendar year for the purpose of engaging in fire, law enforcement, or emergency rescue training.

B. SB 288 (Lieu) – Victim Time Off For Court Proceeding

This legislation adds section 230.5 to the Labor Code to expand the circumstances in which an employee may take leave to appear in any court proceeding to be heard on matters on which victim's rights are at issue. Specifically, employers are prohibited from discharging, discriminating, or retaliating against an employee who takes leave from work to appear in court to be heard in cases involving such crimes as vehicular manslaughter, felony child abuse, assault resulting in the death of a child under eight years of age, felony domestic violence, felony physical abuse of an elder or dependent adult, felony stalking, a serious felony as defined in the Penal Code, solicitation for murder, hit-and-run causing death or injury, or felony driving under the influence.

C. SB 400 (Jackson) – Victims of Domestic Violence, Sexual Assault, or Stalking

This legislation amends sections 230 and 230.1 of the Labor Code. Existing law prohibits an employer from discharging, discriminating, or retaliating against an employee because the employee takes leave from work to appear in court or to obtain other forms of victim's assistance when the employee has been the victim of domestic violence or sexual assault. This legislation extends those protections to victims of stalking. Additionally, employers are now required to provide reasonable accommodation for victims, which may include implementation of safety methods or procedures.

D. SB 770 (Jackson) – Expansion of Paid Family Leave Program

This legislation amends section 3300 of the Unemployment Insurance Code and amends,

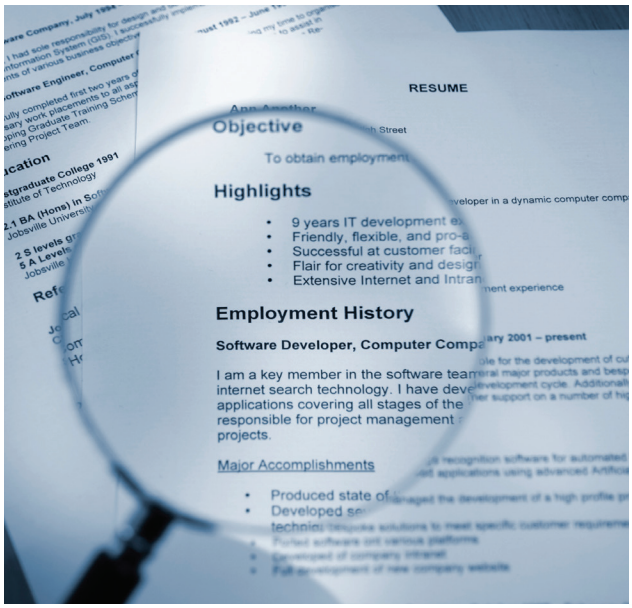
repeals, and adds sections 2708, 3301, 3302, and 3303 of the Unemployment Insurance Code. This legislation expands the scope of the California Paid Family Leave program to provide up to six weeks of partial wage replacement benefits for time off to care for seriously ill grandparents, grandchildren,

siblings, or parents-in-law. Existing law only applies to time taken off to care for a seriously ill child, spouse, parent, domestic partner, or to bond with a child that was recently born, adopted, or taken into foster care. This expansion goes into effect on July 1, 2014.

V. Discrimination/Harassment Legislation

A. AB 556 (Salas) – Expansion of FEHA Protections

This legislation amends sections 12920, 12921, 12926, and 12940 of the Government Code by adding "military and veteran status" to the list of protected categories for employment discrimination purposes under the California Fair Employment and Housing Act (FEHA). The legislation further provides an exemption for any inquiry by an employer regarding military or veteran status for the purpose of awarding a veteran's preference as permitted by law.



B. SB 292 (Corbett) – Sexual Harassment

This legislation amends section 12940 of the Government Code by clarifying that conduct constituting "sexual harassment" prohibited by the California Fair Employment and Housing Act (FEHA) need not be motivated by sexual desire to be unlawful.

VI. New Legislation Affecting Employee/Applicant Background Information

A. AB 218 (Dickinson) – Prohibition of Questions re: Criminal History

This legislation adds section 432.9 to the Labor Code. Beginning July 1, 2014, state and local agencies will be prohibited from asking an applicant to disclose, orally or in writing, information concerning the conviction history of the applicant until the agency has determined the applicant meets the minimum employment qualifications for the position as stated in any notice issued for the position.

The prohibition against asking an applicant to disclose his or her conviction history does not apply to positions in which a state or local agency is otherwise required by law to conduct a conviction history background check, to any position within a criminal justice agency, or to any individual working on a temporary or permanent basis for a criminal justice agency on a contract basis or on loan from another governmental agency.

The new code section does not prohibit state or local agencies from conducting a criminal history background check after determining the applicant meets the minimum employment qualifications for the position as stated in any notice issued for the position.

As part of this legislation, the Legislature found and declared, among other things, "that reducing employment barriers for prior offenders is a matter of statewide concern" and that the reduction of such barriers "will reduce recidivism and improve economic stability in our communities."

B. SB 530 (Wright) – Criminal Convictions and Rehabilitation

This legislation amends section 432.7 of the Labor Code and adds section 4852.22 to the Penal Code. Existing law prohibits an employer from asking an applicant to disclose any arrest or detention that did not result in a conviction. This legislation additionally prohibits an employer from asking an applicant to disclose information concerning a conviction that was judicially dismissed or ordered sealed. This provision does not apply to employers otherwise required by law to obtain that information, if the applicant would be required to possess a firearm in the course of his/her employment, if the applicant was prohibited by law from holding the position sought, or if the employer is prohibited by law from hiring an applicant who was convicted of a crime.
Under existing law, a convicted individual may file a petition for a certificate of rehabilitation and authorizes an individual to file a petition for ascertainment and declaration of rehabilitation after the minimum period of rehabilitation expires. This legislation authorizes a trial court hearing an application for a certificate of rehabilitation to grant the application before the applicable period has elapsed if it believes relief serves the interests of justice.

VII. New Legislation Affecting Workers' Safety/OSHA

A. AB 1202 (Skinner) – Hazardous Drugs

This legislation adds section 144.8 to the Labor Code. This legislation requires the Occupational Safety and Health Standards Board to adopt a standard for the handling of antineoplastic drugs (chemotherapeutic agents that control or kill cancer cells) in health care facilities regardless of the setting. The legislation also requires the standard to be consistent with and not exceed specific recommendations adopted by the National Institute for Occupational Safety and Health for preventing occupational exposures to those drugs in health care settings.

VIII. Miscellaneous

A. AB 1392 (Committee on Insurance) – Work Sharing Plans

This legislation amends section 1279.5 of the Unemployment Insurance Code. Existing law deems an individual unemployed during any week the individual works less than his or her normal work hours as a result of a work sharing plan imposed in lieu of a layoff. This legislation

limits the application of existing law to work sharing plans that become effective before July 1, 2014. This legislation prohibits the renewal of those work sharing plans on or after July 1, 2014.

Additionally, the legislation revises and recasts the work sharing plan provisions that become effective on or after July 1, 2014. In this regard, the legislation defines "work sharing plan" as "a plan submitted by an employer, for approval by the Director of Employment Development, under which the employer requests the payment of work sharing compensation to employees in an affected unit of the employer in lieu of layoffs."

Employers wishing to participate in the work sharing program are required to submit a signed written work sharing plan to the director for approval. The director is then required to develop an application form that fulfills specified requirements, develop an approval process, and designate a work sharing administrator. The employer is required to make a series of certifications and to provide notification to employees. The legislation establishes timelines for the approval of plans and authorizes modifications pursuant to a specified process. The legislation further prescribes requirements for an employee's eligibility for work sharing compensation. This compensation will be charged to employers' experience rating accounts in the same manner as unemployment compensation. Finally, this legislation prohibits employees from being eligible to receive any benefits pursuant to these provisions unless both the employer and the bargaining agent (pursuant to any collective bargaining agreement) agree to voluntarily participate in the work sharing program.

B. SB 46 (Corbett) – Personal Information and Privacy

This legislation amends sections 1798.29 and 1798.82 of the Civil Code, California's existing data breach notification laws. This legislation expands the definition of "personal information" to include information that would permit access to an online account (i.e. "log in" information). Additionally, the legislation imposes requirements on the disclosure of a breach of the security of the system or data in situations where the breach involves personal information that would permit access to an email account.

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