

2024 LEGISLATIVE UPDATE

An Employer's Guide to New Laws Impacting the Workplace in 2024 and Beyond

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A flurry of legislation affecting the workplace was passed in the 2023 legislative session. In an interesting shift, the Governor vetoed more employment bills this year than he has in the past. Nevertheless, the California Legislature passed a number of bills in a variety of areas that will have significant impacts on the workplace for both employers and employees. Bills affecting the workplace in 2024 are summarized as follows:

I. Wage and Hour

1. AB 520 (SANTIAGO) PUBLIC EMPLOYER JOINT AND SEVERAL LIABILITY.

AB 520 amends Labor Code section 238.5 to provide that any individual, business entity, or public entity that contracts for services in the property services or long-term care industries is jointly and severally liable for any unpaid wages, including interest, where the individual, business entity, or public entity has been provided notice, by any party, of any proceeding or investigation by the Labor Commissioner in which the employer is found liable for those unpaid wages, to the extent the amounts are for services performed under that contract.

2. AB 1228 (HOLDEN) MINIMUM WAGE FOR FAST FOOD WORKERS.

The bill repeals sections 1470 through 1473 of the Labor Code and in their place enacts new sections 1474 through 1476. The bill establishes a new Fast Food Council within the Department

of Industrial Relations. The Council's purposes are to establish fast food restaurant minimum standards on wages, working hours, and other working conditions to ensure and maintain the health, safety, and welfare of, and to supply the necessary cost of proper living to, fast food restaurant workers. The bill establishes a minimum wage for fast food restaurant employees of twenty dollars (\$20) per hour, effective April 1, 2024. Thereafter, the Council may establish annual minimum wage increases for fast food restaurant employees beginning on January 1, 2025. Those minimum wage increases are capped at the lesser of ten cents (\$0.10) per hour, 3.5 percent, or the rate of change in the United States Consumer Price Index for Urban Wage Earners and Clerical Workers (U.S. CPI-W).



3. SB 476 (LIMON) HOURS OF WORK/TRAINING FOR FOOD HANDLERS.

The bill amends section 113948 of the Health and Safety Code. It provides that time spent by a food handler to complete the training and the examination necessary to obtain their food handler card are deemed compensable hours worked. In addition, employers are required to pay for any necessary expenditures or losses associated with the employee obtaining a food handler card. An employer must also relieve an employee of all other work duties while the employee is taking the training course and examination. Finally, an employer may not condition employment on an applicant or employee having an existing food handler card.

4. SB 525 (DURAZO) NEW MINIMUM WAGES FOR HEALTHCARE EMPLOYEES.

SB 525 adds section 1182.14 to the Labor Code. The bill establishes five separate minimum wage schedules for health care employees. SB 525 provides for increases to the minimum wages for health care workers depending upon the size and nature of the health care facility in which they work. By way of example, health care employees working in large health care facilities (i.e., 10,000 or more full time equivalent employees) will see a minimum wage increase to twenty three dollars (\$23) an hour beginning June 1, 2024. By June 1, 2026, those same employees will have a minimum wage of twenty five dollars (\$25) an hour. Smaller health care facilities will see lesser increases to the minimum wage for their employees spread out over a greater period of time.

II. Employee Leaves

1. SB 616 (GONZALEZ) INCREASED LEAVE UNDER THE HEALTHY WORKPLACE HEALTHY FAMILY ACT.

The bill amends the Healthy Workplace Healthy Family Act by increasing from three (3) days or twenty four (24) hours to five (5) days or forty (40) hours the amount of paid annual sick leave to which a full time employee is entitled. The bill also increases the maximum amount of paid sick leave an employee may accrue to ten (10) days or eighty (80) hours.

2. SB 848 (RUBIO) LEAVE FOR REPRODUCTIVE LOSS.

The bill adds section 12945.6 to the Government Code. It requires that an employer with five (5) or more employees must provide five (5) days of reproductive loss leave following a reproductive loss event. If an employee experiences more than one reproductive loss event within a 12-month period, an employer shall not be obligated to grant a total amount of reproductive loss leave time in excess of 20 days within a 12-month period. A reproductive loss event includes a failed adoption, failed surrogacy, miscarriage, stillbirth, or an unsuccessful assisted reproduction, with all

such terms defined in the new law. The leave provided for in the bill need not be consecutive but must be completed within three (3) months of the reproductive loss event. It is an unlawful employment practice for an employer to interfere with, restrain, or deny the exercise of, or the attempt to exercise the rights provided in the new law. The bill also contains an anti-retaliation provision.

III. Equal Employment Opportunity

1. SB 461 (WAHAB) HOLIDAY CREDIT FOR STATE EMPLOYEES.

The State Civil Service Act gives state employees time off for specified holidays and one personal holiday per year. The one personal holiday per year can be subject to limitations. For example, a department head may require the employee give five working days' notice before taking a personal holiday. Holiday credit does not have such limitations. This bill allows a state employee to receive 8 hours of holiday credit for certain holidays in lieu of receiving 8 hours of personal holiday credit. SB 461 provides a non-exhaustive list of holidays from various religions and cultures that have not traditionally received official state recognition. The provisions of the law apply only to a bargaining unit once it meets and confers with CalHR, regardless of whether that bargaining unit has entered into a memorandum of understanding with the State.

2. SB 497 (SMALLWOOD-CUEVAS) NEW REBUTTABLE PRESUMPTION FOR RETALIATION.

SB 497 revises multiple provisions of the Labor Code that address retaliation. Under the current law, an employee has the burden of establishing a prima facie case of retaliation. To establish a prima facie case of retaliation, an employee must show they engaged in a protected activity, the employer engaged in an adverse action against the

employee, and that the adverse action was in response to the employee's protected activity. SB 497 makes it easier for employees to establish a prima facie case of relation by establishing a rebuttable presumption of retaliation if an employee is disciplined or discharged within 90 days of engaging in a protected activity. This presumption applies when an employee engages in whistle-blowing, exercises their rights under the Equal Pay Act, or files specified claims against their employer with the Labor Commissioner. To rebut the presumption, an employer must present a legitimate justification for the adverse action. SB 497 also provides that civil penalties of up to \$10,000 may be recovered and awarded to an employee subjected to retaliation.



3. SB 700 (BRADFORD) CANNABIS USE; HIRING.

In 2022, the Legislature passed AB 2188 (Quirk), which amended Government Code section 12954 to prohibit employers from discriminating against a person in hiring, termination, or terms and conditions of employment based on either a person's use of cannabis off the job and away from the workplace or a drug screening test that finds nonpsychoactive cannabis metabolites in a person's hair, blood, urine, or other bodily fluid. That law takes effect January 1, 2024. This latest bill further amends Government Code section 12954 to make it an unlawful employment practice for an employer to request information from an

applicant for employment relating to the applicant's prior use of cannabis. That prohibition applies to information obtained through a criminal history background check, unless that information was obtained in compliance with the requirements of Government Code section 12952 or other applicable federal or state law.

IV. Labor Relations

1. AB 1 (MCKINNOR) UNIONIZATION OF STATE LEGISLATIVE EMPLOYEES.

The bill adds the Legislature Employer-Employee Relations Act commencing at Government Code section 3599.50 of the Government Code. The bill provides union organizing and collective bargaining rights to employees of the State Legislature, excluding elected officials, appointed officers, and department or office leaders (e.g., chiefs of staff).



2. AB 636 (KALRA) AGRICULTURAL EMPLOYEES AND REQUIRED NOTICES.

AB 636 amends Labor Code section 2810.5 to require employers to provide H-2A agricultural visa employees with additional information at hiring. Employers must provide written notice that informs the employee of a federal or state emergency or disaster declaration applicable to the county where the employee will be employed that may affect their health or safety. Written notice of specific

information about the employee's rights under California law must also be provided. The Labor Commissioner is required to publish a notice template to its website by March 1, 2024. The emergency declaration or disaster notice requirements will be effective January 1, 2024. The notice requirements relating to H-2As rights under California Law will be effective March 1, 2024.

3. AB 647 (HOLDEN) CHANGES TO GROCERY WORKERS' RECALL RIGHTS.

AB 647 amends the existing California Grocery Worker Retention Law, Labor Code section 2500, et seq. Within 15 days after the execution of the sale of a grocery store, the seller must provide the buyer a list of grocery workers employed by the seller. AB 647 requires the seller also provide this list to any collective bargaining representative. The buyer of the grocery store must retain these employees for a 90-day transition period, during which time an employee may be discharged only for cause. AB 647 also expands the definition of "grocery establishment" to include a "distribution center owned and operated by a grocery establishment and used primarily to distribute goods to and from its owned stores," regardless of square footage. The new law excludes from its provisions a store that has stopped operations for a year or more. AB 647 authorizes the Labor Commissioner to enforce a private right of action for a violation of the California Grocery Worker Retention Law.

4. AB 1484 (ZBUR) TEMPORARY EMPLOYEES OF PUBLIC EMPLOYERS.

The bill amends the Meyers-Milias-Brown Act (MMBA) by adding new Labor Code section 3507.7. The bill includes a series of legislative findings and declarations, including a finding that public employers are increasingly hiring temporary employees, who are disproportionately women and people of color, and the lesser rights of temporary

employees exacerbate race and gender inequity in public employment. The term “temporary employee” is defined broadly to include a temporary employee, casual employee, seasonal employee, periodic employee, extra-help employee, relief employee, limited-term employee, per diem employee, and any other public employee who has not been hired for a permanent position. The bill requires a public employer, upon request by a recognized employee organization, to include temporary employees who have been hired to perform the same or similar type of work that is performed by permanent employees to be included in the same bargaining unit as the permanent employees. The public employer must promptly participate in collective bargaining to establish wages, hours, and terms and conditions of employment for the newly added temporary employees if the parties’ current memorandum of understanding does not address them, although the wages, hours, and terms and conditions of employment of temporary employees does not have to be the same as permanent employees. Upon reaching agreement regarding the wages, hours, and terms and conditions of employment for temporary employees, the employer and recognized employee organization must execute an addendum to any existing memorandum of understanding and thereafter must include those provisions in any subsequently bargained MOUs. The bill imposes requirements regarding information the public employer must provide to temporary employees and recognized employee organizations. Finally, the bill defines as new mandatory subjects of bargaining (i) whether the period of temporary employment shall count for seniority purposes if the temporary employee is hired into a permanent position and (ii) whether temporary employees will receive hiring preferences for vacancies in permanent positions.

5. SB 332 (CORTESE) MINOR LEAGUE BASEBALL PLAYERS.

The bill adds section 514.5 to the Labor Code exempting minor league baseball players who are represented by

a labor organization with at least ten (10) years of experience representing baseball players from statutory provisions regarding hours of work and alternative workweek schedules.



6. SB 723 (DURAZO) EXTENSION OF RECALL RIGHTS FOR HOSPITALITY AND AIRPORT EMPLOYEES.

SB 723 extends a law that gives recall rights to laid-off employees in specified sectors to December 31, 2025. In 2021, Governor Newsom signed SB 93 into law which required employers in specified sectors (airport, building service, hotels, event centers, etc.) to first rehire employees laid off due to COVID-19. In addition to extending the sunset date of the law, SB 723 establishes a presumption that “a separation due to a lack of business, reduction in force, or other economic, non-disciplinary reason is due to a reason related to the COVID-19 pandemic, unless the employer establishes otherwise by a preponderance of the evidence.”

V. Workers’ Compensation

1. AB 489 (CALDERON) PRE-PAID CARDS FOR DISABILITY INDEMNITY PAYMENTS.

AB 489 extends a pilot program that allows workers’ compensation payments to be made through prepaid cards by another year. The existing program was originally approved in 2018 and modeled after an Employment Development Department program that uses prepaid cards

to issue unemployment and disability payments. AB 489 would extend the authorization to deposit temporary and permanent disability indemnity payments in a prepaid card account until January 1, 2025.

2. AB 621 (IRWIN) DEATH BENEFITS FOR PUBLIC SAFETY AND FIREFIGHTERS.

The bill amends section 4707 of the Labor Code. Existing law provides that no benefits, except reasonable expenses of burial not exceeding one thousand dollars (\$1,000), shall be awarded on account of the death of an employee who is an active member of the Public Employees' Retirement System, except under specified conditions. This bill expands that exemption to include public safety employees and firefighters.



VI. Workplace Safety

1. AB 521 (BAUER-KAHAN) SINGLE USER TOILETS AT CONSTRUCTION SITES.

The bill amends section 118600 of the Health and Safety Code and adds section 6722 to the Labor Code. The bill directs the Cal/OSHA Standards Board to develop regulations by December 1, 2025 to require at least one single-user toilet facility on all construction jobsites, designed for employees who self-identify as female or nonbinary. In a set of legislative findings and declarations, the bill states that such regulations are necessary to ensure

the safety and security of women and nonbinary individuals on construction jobsites.

2. AB 1007 (ORTEGA) REMOVAL OF TOXIC PLUMES.

AB 1007 requires Cal/OSHA to submit to the Cal/OSHA Standards Board a proposed regulation requiring hospitals to remove toxic plumes using plume-scavenging systems. Surgical procedures that use lasers create a smoke plume that contain toxic gases and vapors which are inhaled by doctors, nurses, and patients. The deadline for Cal/OSHA to submit a proposed regulation to the Board is December 1, 2026. The Board must then consider the proposed regulation for adoption by June 1, 2027.

3. SB 428 (BLAKESPEAR) TEMPORARY RESTRAINING ORDERS FOR HARASSMENT.

Existing law authorizes employers to seek a temporary restraining order (TRO) against a person who has threatened workplace violence or engaged in workplace violence on behalf of an employee. This bill expands this law to allow an employer to seek a TRO against a person who has harassed its employees. The bill defines harassment as "a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, or harasses the person, and that serves no legitimate purpose. The course of conduct must be that which would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress." SB 428 will take effect January 1, 2025.

4. SB 553 (CORTESE) WORKPLACE VIOLENCE PREVENTION PLAN.

The bill requires employers to create a comprehensive workplace violence prevention plan. The new law includes specific training and recordkeeping requirements for the workplace violence prevention plans. Healthcare facilities, teleworkers, and employers with fewer than 10 employees are exempted from this new law. Employers subject to the

law will have to review and update their workplace violence prevention plans on an annual basis. Employers must establish the workplace violence prevention plan by July 1, 2024.

VII. Prevailing Wage

1. AB 338 (AGUILAR-CURRY) PREVAILING WAGE ON FUEL REDUCTION PROJECTS.

The bill adds Division 47 (commencing with Section 80200) to the Public Resources Code. The bill requires that apprentices working on a fuel reduction project that is performed pursuant to contract must be paid at least the general prevailing wage for the geographic region in which the work is being performed. A fuel reduction project is defined to include residential chipping, rural road fuel breaks, and firebreaks.

2. AB 587 (RIVAS) PREVAILING WAGE RECORDS..

The bill requires that certified payroll records that a contractor or subcontractor is required to maintain to satisfy prevailing wage obligations, when requested by a Taft-Hartley trust fund or a joint labor-management committee, cannot be produced in electronic format but must be produced on forms developed by the Division of Labor Standards Enforcement.

VIII. Miscellaneous

1. AB 1076 (BAUER-KAHAN) AND SB 699 (CABALLERO) NON-COMPETE CLAUSES.

Both the Assembly and State Senate addressed non-compete agreements this legislative session. Non-compete agreements prohibit an employee from accepting new positions in similar lines of work or establishing a competing business. They have long been void in California, save for a few exceptions. Despite being unenforceable in California, some employers still include them in employment contracts.

SB 699 adds section 16600.5 to the Business and Professions Code. It provides that non-compete agreements made void

under section 16600 are void regardless of where they were executed. It prohibits employers from entering into non-compete agreements or attempting to enforce such agreements in California courts. According to SB 699, an employer who enters into a non-compete agreement or attempts to enforce one has committed a “civil violation.” An employee or former employee may bring an action for injunctive relief and actual damages for violation of the prohibitions in the bill and may recover attorney’s fees if successful in bringing such an action.

AB 1076 amends section 16600 of the Business and Professions Code to affirm that the prohibition against non-compete agreements should be interpreted broadly. The bill also adds section 16600.1 to the Business and Professions Code which imposes a requirement that employers inform employees, who were employed after January 1, 2022 and who have non-compete provisions in a contract of employment, that such provisions are void. The notice must be in writing and provided by February 14, 2024. Finally, AB 1076 declares that any violation of these new requirements constitutes an unfair business practice under Business and Professions Code section 17200.



2. SB 267 (EGGMAN) RENTERS' CREDIT HISTORIES.

The bill amends Government Code section 12955, a part of the California Fair Employment and Housing Act. The bill provides that in instances in which there is a government rent

subsidy, it is an unlawful housing practice to use a person's credit history as part of the application process for a rental accommodation without offering the applicant the option, at the applicant's discretion, of providing lawful, verifiable alternative evidence of the applicant's reasonable ability to pay the portion of the rent to be paid by the tenant, including, but not limited to, government benefit payments, pay records, and bank statements. If the applicant elects to provide lawful, verifiable alternative evidence of the applicant's reasonable ability to pay, the landlord must (i) provide the applicant reasonable time to respond with that alternative evidence and (ii) reasonably consider that alternative evidence in lieu of the person's credit history in determining whether to offer the rental accommodation to the applicant.

3. SB 365 (WIENER) STAY OF TRIAL COURT PROCEEDINGS.

Existing law, Code of Civil Procedure section 916, makes an order dismissing or denying a petition to compel arbitration appealable. This bill amends section 916 to provide that such an appeal does not automatically stay any proceedings in the trial court during the pendency of the appeal.

IX. Vetoes

1. AB 504 (Reyes) would have prohibited a public employer from disciplining a public employee who refused to cross picket lines.

2. AB (Wicks) would have added "family caregiver" status to the list of protected classifications under the Fair Employment and Housing Act.

3. AB 699 (Weber) would have expanded workers' compensation remedies for lifeguards employed by the San Diego Fire-Rescue Department.

4. AB 1079 (Jackson) would have required the California Department of Public Health to establish a Hate Crimes

Intervention Unit which would have implemented community interventions in response to hate crimes throughout the state. The bill would have also required the Civil Rights Department to establish a department that would have been responsible for creating and implementing a statewide media campaign to discourage discrimination.

5. AB 1213 (Ortega) would have required that when a denial of treatment requested by a treating physician is subsequently overturned by independent medical review or by the Workers' Compensation Appeals Board, any temporary disability to which the employee is entitled to receive or becomes entitled to receive from the date of the denial until the treatment is authorized would not be included in the calculation of the aggregate disability payments.

6. AB 1356 (Haney) would have revised CalWARN to (1) extend the law's protections to contract employees and (2) expand the definition of "covered establishment" so more businesses would have been subject to the requirements of CalWARN.



7. SB 391 (Blakespear) would have expanded the rebuttable presumption that skin cancer is an industrial injury to certain peace officers of the Department of Fish and Wildlife and the Department of Parks and Recreation.

8. SB 403 (Wahab) would have added "ancestry" as a protected classification under the Fair Employment and Housing Act. The bill currently is pending in the State Senate for consideration of the Governor's veto.

9. SB 627 (Smallwood-Cuevas) would have created displacement notice and reinstatement rights for employees working for a chain employer as defined. The bill currently is pending in the State Senate for consideration of the Governor's veto.

10. SB 731 (Ortega) would have created notification obligations if an employer seeks to end a teleworking arrangement with employees. The bill currently is pending in the State Senate for consideration of the Governor's veto.



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