

Senate Committee on Labor & Industrial Relations

Legislative Summary 2015-2016



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Apprenticeship & Job Training

AB 509 – Perea

California Private Postsecondary Education Act of 2009: exemptions

Chapter 558, Statutes of 2015

This bill creates an exemption from the California Private Postsecondary Education Act (Act) for preapprenticeship programs offered by a bona fide organization, association or council that offers preapprenticeship training programs on behalf of one or more labor-management apprenticeship programs approved by the Division of Apprenticeship Standards, if certain conditions are met.

AB 1308 – Perea

Apprenticeship programs: approval.

Chapter 126, Statutes of 2015

This bill revises conditions for when the apprentice training needs in the building and construction trades justify a new apprentice program. This bill would also remove the authority of the California Apprenticeship Council to approve a new apprenticeship program justified by special circumstances by regulation.

AB 2288 – Burke

Apprenticeship programs: building and construction trades

Chapter 692, Statutes of 2016

This bill requires that the California Workforce Development Board and each local board ensure, to the maximum extent feasible, that federal Workforce Innovation and Opportunity Act of 2014 funds which are awarded for the purposes of preapprenticeship training in the building and construction trades fund program and services that 1) follow the Multi-Craft Core Curriculum implemented by the State Department of Education, as specified; and 2) develop a plan for outreach and retention for women participants to help increase the representation of women in the building and construction trades.

SB 607 – Bates

Certified electricians: skilled journeyman.

Failed Passed in Senate Labor Committee

This bill would have defined a general electrician journeyman as someone who is a certified general electrician, rather than someone who has completed an electrician apprenticeship program.

Meal & Rest Periods

AB 202 – Gonzalez

Professional sports teams: cheerleaders: employee status.

Chapter 102, Statutes of 2015

This bill provides that, notwithstanding any other law, for purposes of the provisions of state law that govern employment, a cheerleader that is utilized by a California-based professional sports team during its exhibitions or games shall be deemed to be an employee.

SB 327 – Hernandez

Industrial Welfare Commission: wage orders: meal periods

Chapter 506, Statutes of 2015

This bill clarified that health care employee meal period waiver provisions in existing Industrial Welfare Commission wage orders have been valid and enforceable since October 1, 2000. The bill stated that its provisions were declarative of, and clarified, existing law. This bill included an urgency clause.

SB 1344 – Stone

Domestic work employees.

Failed Passage in the Senate Committee on Labor and Industrial Relations

This bill would have allowed certain domestic work employees, through agreement with their employers, to deduct a scheduled sleeping period from their pay.

Labor Standards & Enforcement

AB 272 – Lackey

California Fair Employment and Housing Act: reserve peace officers.

Vetoed

This bill would have provided that a person deputized or appointed by the proper authority as a peace officer pursuant to Penal Code Section 830.6 including, but not limited to, a person who is deputized or appointed as a reserve deputy sheriff or a reserve city police officer, is an employee of the appointing authority for purposes of the California Fair Employment and Housing Act.

AB 359 – Gonzalez

Grocery Workers

Chapter 212, Statutes of 2015

This bill establishes a worker retention requirement, upon a change in control of a grocery establishment, that requires an incumbent employer to prepare a list of specified eligible grocery workers for a successor grocery employer, and requires the successor grocery employer to hire from this list during a 90-day transition period. This bill requires the successor grocery employer to retain eligible grocery workers for a 90-day period, prohibits the successor grocery employer from discharging those workers without cause during that period, and, upon the close of that period, requires the successor grocery employer to consider offering continued employment to those workers.

AB 621 – Hernandez

Drayage truck operators.

Chapter 741, Statutes of 2015

This bill established the Motor Carrier Employer Amnesty program (program), to be administered by the Labor Commissioner and EDD, a limited amnesty program with respect to the misclassification of port drivers. The bill provides that the Labor Commissioner and EDD shall administer the program to an eligible motor carrier performing drayage services at any port and allows for an eligible motor carrier to be relieved of liability for statutory or civil penalties associated with misclassification of commercial drivers as independent contractors if the eligible motor carrier executes a settlement agreement with the Labor Commissioner whereby the motor carrier agrees to properly classify all of its commercial drivers to employees. The bill specifies that, before January 1, 2017, the Labor Commissioner may negotiate and execute a settlement agreement with an eligible motor carrier but may not on or after January 1, 2017.

AB 622 – Hernandez**Employment: E-Verify system: unlawful business practices***Chapter 696, Statutes of 2015*

This bill expanded the definition of an unlawful employment practice to prohibit an employer or any other person or entity from using the E-Verify system at a time or in a manner not required by federal law or not authorized by a federal agency memorandum of understanding to check the employment authorization status of an existing employee or an applicant who has not received an offer of employment, as specified. This bill provides for a civil penalty of \$10,000 for each violation of the provisions of the bill.

AB 883 – Low**Employment: public employee status.***Vetoed*

This bill would have prohibited a state or local agency, as defined, from advertising or announcing a job that discriminates against an applicant who is a current or former public employee.

AB 970 – Nazarian**Labor Commissioner: enforcement of employee claims.***Chapter 739, Statutes of 2015*

This bill authorizes the Labor Commissioner to issue a citation to enforce local minimum wage and overtime laws, as well as against an employer or person acting on behalf of an employer for violations of existing law related to reimbursements for expenses.

AB 1017 –Campos**Employers.***Vetoed*

This bill would have prohibited the use of employee salary history information. Specifically, the bill prohibited an employer, orally or in writing, from seeking salary history information, including compensation and benefits, from an applicant for an interview or as a condition of employment. The bill also stated that this section shall not apply to salary history information disclosable to the public pursuant to federal or state law, including but not limited to, the California Public Records Act or federal Freedom of Information Act.

AB 1506 – Hernandez
Labor Code Private Attorneys General Act of 2004

Chapter 445, Statutes of 2015

This bill amends the Labor Code Private Attorneys General Act of 2004 (PAGA) to provide an employer with the right to cure a violation of failing to provide its employees with a wage statement containing the inclusive dates of the pay period and the name and address of the legal entity that is the employer before an employee may bring a civil action under the act. This bill limits the employer's right to cure such a violation to once in a 12-month period.

AB 1669 – Hernandez
Displaced employees: service contracts: collection and transportation of solid waste

Chapter 874, Statutes of 2016

This bill requires a 10 percent bid preference for bidders who agree to retain for a period of 90 days the employees of the prior contractor or subcontractor on local agency contracts for the collection and transportation of solid waste.

AB 1840 – Gipson
State agencies: interns and student assistants: hiring preference

Chapter 404, Statutes of 2016

This bill requires state agencies, when hiring for internships and student assistant positions, to give preference to homeless youth and formerly incarcerated youth, as defined. This bill also requires any application for these positions to allow the applicant to identify that he or she is eligible for these preferences, but prohibits the application from requiring the applicant to identify the specific category that entitles him or her for eligibility.

AB 1843 – Stone**Applicants for employment: criminal history.***Chapter 686, Statutes of 2016*

This bill prohibits employers from using as a condition of employment, or from asking applicants to disclose, any information related to an applicant's arrest, detention, sealed juvenile criminal records, or involvement in any other specified process under the jurisdiction of juvenile court law, provided that it did not result in a conviction. This bill also excludes juvenile court processes, programs, and actions from the definition of conviction and from disclosure or consideration as a condition employment. However, an employer can inquire into an applicant's juvenile criminal background if a juvenile court made a final ruling, or adjudication, that the applicant had committed a felony or misdemeanor relating to sex crimes or certain controlled substances crimes within five years prior to applying for employment. Employers making such inquiries would also be required to provide those affected applicants with a list describing the specific drug and sex crime offenses about which they may inquire. Also, this bill expands the prohibition on the exposure or possession of juvenile offender record information.

AB 2261 – Hernandez**Division of Labor Standards Enforcement: duties***Placed on the Senate Inactive File*

This bill would have authorized the Division of Labor Standards Enforcement to commence an investigation, with or without receiving a complaint from an employee, of an employer that it suspects to have discharged or otherwise discriminated against an individual in violation of any law under the jurisdiction of the Labor Commissioner.

AB 2532 – Chiu**Employment services: verification.***Chapter 759, Statutes of 2016*

This bill repeals the requirement to verify an individual's legal status or authorization to work prior to them receiving employment services from state or local government agencies or any private contracting agencies. This bill also repeals the associated workplace posting requirement regarding the need for such verification.

AB 2898 – Hernández**Private Attorneys General Act of 2004***Placed on the Senate Inactive File*

This bill would have amended the Private Attorneys General Act (PAGA) by lengthening the window during which a plaintiff may add a cause of legal action to an existing complaint against an employer from 60 to 90 days of the time periods specified under the Act.

SB 358 – Jackson**Conditions of employment: gender wage differential.***Chapter 546, Statutes of 2015*

This bill makes various changes to the California Equal Pay Act related to gender wage inequality. Specifically, this bill prohibits an employer from paying any of its employees at wage rates less than the rates paid to employees of the opposite sex for substantially similar work, when viewed as a composite of skill, effort, and responsibility, and performed under similar working conditions, except where the employer demonstrates: The wage differential is based upon one or more of the following factors: a seniority system; a merit system; a system that measures earnings by quantity or quality of production; or a bona fide factor other than sex, such as education, training, or experience. This factor shall apply only if the employer demonstrates that the factor is not based on or derived from a sex-based differential in compensation, is job related with respect to the position in question, and is consistent with a business necessity.

SB 548 – DeLeon**Child care: family child care providers: orientation training.***Vetoed*

This bill would have required the California Department of Education (CDE) to ensure that all family child care providers attend in-person orientation training, as specified and would have required the CDE and California Department of Social Services (DSS) to make information regarding family child care providers available to provider organizations, as specified.

SB 588 – DeLeon**Employment: nonpayment of wages: Labor Commissioner: judgment enforcement.***Chapter 803, Statutes of 2015*

This bill allows the Labor Commissioner to file a lien or levy on an employer's property in order to assist the employee in collecting unpaid wages when there is a judgment against the employer.

SB 599 – Mendoza**Employment: public transit service contracts.***Vetoed*

This bill would have extended a 10% bid preference for bidders on public transit contracts who agree to retain the employees of the prior contractor or subcontractor to all public transit contracts awarded by the State of California.

SB 1063 – Hall

Conditions of employment: wage differential: race or ethnicity.

Chapter 866, Statutes of 2016

This bill amends the Equal Pay Act to prohibit employers from paying employees a wage rate less than the rate paid to employees of a different race or ethnicity for substantially similar work.

Occupational Safety & Health

AB 520 – Levine

Private employment: occupational safety and apprenticeships.

Held on Assembly Unfinished Business

As originally introduced, this bill would have revised the annual report filed by the Division of Apprenticeship Standards and the California Apprenticeship Council to include any apprenticeship standards or regulations that were proposed or adopted in the previous year. AB 520 was later amended to instruct the Occupational Safety and Health Standards Board to adopt a standard developed by the Division of Occupational Safety and Health that requires employers to use trained and certified personnel when performing corrosion prevention work on industrial and infrastructure projects.

AB 578 – Low

Occupational safety and health.

Vetoed

This bill would have required an applicant for a permanent variance to an occupational safety and health standard to also give notice to workers at the place of employment who will be "affected" by or exposed to hazards by the permanent variance, or representatives of the affected employees and provide certification of the notice. This bill also would have also, upon request, allowed "affected employees" or their representatives be granted party status in permanent variance proceedings. This bill also would have required such provisions to temporary variance procedures.

AB 768 – Thurmond

Smokeless tobacco: baseball stadiums.

Chapter 779, Statutes of 2015

This bill bans the use of smokeless tobacco on a baseball field during a practice or a baseball game.

AB 1050 – Low

Occupational safety and health: permanent variances

Vetoed

This bill would have required employers seeking a permanent variance to a conveyance covered by the elevator safety orders to notify the union representing elevator workers in the region where the building is being constructed or modified and those workers who will be performing the tasks pursuant to the proposed variance, or their authorized representative. This bill would have granted these workers, or their authorized representative, party status upon request to the Board.

AB 1451 – Chavez
Occupational safety and health standards: hazardous drugs.

Vetoed

This bill would have extended “4850 leave” to lifeguards employed on an annual, full-time basis by the City of Oceanside.

AB 2025 – Gonzalez
Barbering and cosmetology: labor law education requirements

Chapter 409, Statutes of 2016

This bill updates the Barbering and Cosmetology Act (Act) to ensure that the Board of Barbering and Cosmetology (BBC) offers all written materials provided to licensees and applicants in English, Spanish and Vietnamese; that the BBC provides practitioner and establishment applicants with information about basic labor laws and; that the BBC includes basic labor law information in health and safety curriculum taught in BBC-approved schools.

AB 2272 – Thurmond
Occupational safety and health standards: plume.

Vetoed

This bill would have required the Division of Occupational Safety and Health to convene an advisory committee to develop a regulation regarding the protection of health care personnel and patients from exposure to vaporized human tissue, defined in this bill as “plume.” It would also have required the regulation include a requirement for employers to provide training to employees that may be exposed to plume on its nature, risk, and methods to avoid exposure. This bill would have required the proposed regulation be submitted to the Occupational Safety and Health Standards Board for consideration and subsequent adoption by July 1, 2019.

AB 2337 – Burke
Employment protections: victims of domestic violence, sexual assault, or stalking.

Chapter 355, Statutes of 2016

This bill requires employers to provide their employees with written notice of their right to take time off from work for certain purposes if they are a victim of domestic violence, sexual assault, or stalking. In order to facilitate compliance by employers, this bill requires the Labor Commissioner to develop a form that employers could use to comply with the notice requirement. It also requires the Commissioner to post the form on his or her Web site on or before July 1, 2017, and provides that an employer is not required to comply with the disclosure requirement until the Commissioner posts the form.

AB 2895 – Hernandez
Employee safety: injury prevention programs

Placed on the Senate Inactive File

This bill would have required, commencing July 1, 2017, an employer to keep a complete, updated copy of the currently required written injury prevention program at each worksite with three or more employees and to make it available for inspection by any employee or by the Division of Occupational Safety and Health upon oral request. This bill also requires an employer to inform each employee and each new hire of the availability of, and of the employee's rights with respect to inspecting and receiving, a copy of the written injury prevention program, as specified. Additionally, an employer that receives a written request for a copy of the injury prevention program must comply within a specified timeframe or entitle the employee to injunctive relief, as specified.

SB 730 – Wolk
Railroads: movement of freight: trains or light engines: crew size

Chapter 283, Statutes of 2015

This bill prohibits a train or light engine used in connection with the movement of freight from being operated in California unless it has a crew consisting of at least two individuals, as specified. This bill authorizes the California Public Utilities Commission (CPUC) to assess civil penalties for willful violations of this provision.

SB 1100 – Monning
Worker occupational safety and health training and education program.

Placed on the Senate Inactive File

This bill would have expanded the purpose of the worker occupational safety and health training and education program to include collaboration with the Occupational Health Branch of the Department of Public Health and the provision of training through an agreement with the University of California occupational health centers with the goal of preventing occupational injuries.

SB 1167 – Leyva/Mendoza
Employment safety: indoor workers: heat regulations

Chapter 839, Statutes of 2016

This bill requires the division, by January 1, 2019, to propose to the Occupational Safety and Health Standards Board for the board’s review and adoption, a heat illness and injury prevention standard applicable to workers working in indoor places of employment. Among other things, this bill requires that the standard be based on environmental temperatures, work activity levels, and other factors. Additionally, the bill specifies that these provisions do not prohibit DOSH from proposing, or the Standards Board from adopting, a standard that limits the application of high heat provisions to certain industry sectors.

Workforce Development & Workforce Development Board

AB 1270 – E. Garcia

California Workforce Innovation and Opportunity Act

Chapter 94, Statutes of 2015

This bill makes necessary changes to existing workforce development statutes to conform to the new federal guidelines under the Workforce Innovation and Opportunity Act (WIOA) while preserving core elements of California's workforce development policies. This bill updates statutory references to the Workforce Investment Act of 1998 to instead refer to the WIOA and make related conforming changes. This bill renames the California Workforce Investment Board (CWIB) the California Workforce Development Board and revises the membership of the board. This bill renames the local boards as local workforce development boards and revises their duties consistent with the federal WIOA.

AB 2105 – Rodriguez

Workforce development: allied health professions.

Chapter 410, Statutes of 2016

This bill requires the Department of Consumer Affairs to engage in a stakeholder process to update policies and identify barriers in order to facilitate the development of “Earn and learn” training programs in the allied health professions.

AB 2719 – E. Garcia

Workforce development: out-of-school youth.

Vetoed

This bill would have emphasized the need to make out-of-school youth a state workforce development priority and therefore make services accessible for this group through funds available under the federal Workforce Innovation and Opportunity Act.

SB 342 – Jackson
California Workforce Investment Board: responsibilities

Chapter 507, Statutes of 2015

This bill requires the California Workforce Investment Board (CWIB) to assist the Governor in helping individuals with barriers to employment, including low-skill, low-wage workers, the long-term unemployed, and members of single-parent households, achieve economic security and upward mobility by implementing policies that encourage the attainment of marketable skills relevant to current labor market trends. This bill also defines “earn and learn” job training opportunities, as specified, and incorporates language adopted pursuant to AB 1270 (Garcia, Chapter 94, Statutes of 2015) to avoid chaptering issues.

Unemployment Insurance, State Disability Insurance & EDD

AB 908 – Gomez

Disability compensation: disability insurance.

Chapter 5, Statutes of 2016

This bill increasing the wage replacement benefits for both SDI and PFL to 70% for individuals whose wages are under one-third of the statewide average weekly wage for both PFL and SDI, 60% for individuals whose wages are over one-third of the statewide average weekly wage, and requires the benefit increases to be operative by January 1, 2018.

AB 1245 – Cooley

Unemployment insurance: electronic reporting and funds transfers

Chapter 222, Statutes of 2015

This bill requires an employer with 10 or more employees to file all reports and returns, and remit all contributions for unemployment insurance premiums to the Employment Development Department (EDD) electronically, as specified. Beginning on January 1, 2018, this bill extends the application of these electronic filing requirements to all employers. This bill authorizes the granting of a waiver from these requirements for severe hardship, as specified. In addition to any other penalties imposed under existing law for failure to timely and properly submit their reports, this bill imposes a \$50 penalty on employers who fail to file without good cause, as specified.

AB 1514 – Assembly Committee on Insurance

Employment Development Department: training benefits: reports.

Chapter 739, Statutes of 2015

This bill made minor technical changes to the CTB Program and updates the EDD reporting requirements, updates references to outdated federal workforce statutes in sections governing the CTB Program to the Workforce Innovation and Opportunity Act, requires the EDD to automatically qualify individuals participating in an employer sponsored training program for benefits through the CTB Program. This bill also requires the EDD to automatically qualify individuals participating in an apprenticeship program approved by either the state or federal government and eliminates the requirement that claimants receiving CTB benefits have their weekly certification of benefits signed by their training provider.

AB 2197 – Christina Garcia
Unemployment insurance: classified employees.

Vetoed

This bill would have permitted classified school employees to be eligible to collect unemployment insurance (UI) benefits between school years with or without a reasonable assurance of being employed in the next academic year, provided that funds are appropriated for that purpose in the annual Budget Act.

AB 2493 – Atkins
Firefighters: disability.

Vetoed

This bill would have extended “4850 leave” to firefighters employed by the Department of Forestry and Fire Protection.

AB 2886 – Assembly Committee on Insurance
Disability benefits: eligibility determinations: benefit computations: overpayment determinations: appeals.

Chapter 276, Statutes of 2016

This bill extends the California Unemployment Insurance Appeals Board appeals window for State Disability Insurance and Paid Family Leave benefits from 20 to 30 days.

SB 667 – Jackson
Disability insurance: eligibility: waiting period

Chapter 357, Statutes of 2015

This bill extended the duration of the "disability benefit period" from 14 days to 60 days so that fewer claimants with ongoing or recurring conditions have to face a new seven-day waiting period for each absence from work. This bill also requires the Employment Development Department (EDD) to report on the impact of this change to the Legislature by January 1, 2020.

SB 1409 – Morrell**Employment Development Department: administration: social security numbers: report.*****Returned to Secretary of Senate Pursuant to Joint Rule 56***

This bill would have required that, if the Employment Development department discovers that more than one individual is using a social security number, EDD must determine which user is legally issued that number within 60 days of discovery, and to provide a notification to the individual who is determined to be legally issued that social security number that a duplicate attempt was made to use that number and a notification containing specified information to the other users of that number within 30 days of making that determination. This bill would also require the department to keep a record of those numbers and dates of discoveries and notices, as specified, and would require the department to submit a report to the Legislature on or before January 1, 2018, and annually thereafter regarding that record, as specified.

Workers' Compensation

AB 305 – Gonzalez

Workers' compensation: permanent disability apportionment.

Vetoed

This bill would have prohibited apportionment if pregnancy or menopause is contemporaneous with the injured worker's claimed injury, and also would have required that breast cancer not be less than the comparable impairment rating for prostate cancer.

AB 438 – Chiu

State government: workers' compensation: bilingual services.

Chapter 515, Statutes of 2015

This bill promotes the translation of Division of Workers' Compensation (DWC) and Department of Industrial Relations (DIR) forms to additional languages beyond English and Spanish.

AB 1124 – Perea

Workers' compensation: prescription medication formulary.

Chapter 525, Statutes of 2015

This bill requires that the Division of Workers' Compensation (DWC) create a workers' compensation-specific formulary that would govern the prescribing of medicines for injured workers.

AB 1244 – Gray

Workers' Compensation.

Chapter 852, Statutes of 2016

This bill requires the administrative director of the Division of Workers' Compensation to suspend a physician, practitioner, or provider from providing care or services in the workers' compensation system if he or she is convicted of workers' compensation fraud. This bill also provides a process for the dismissal of the convicted physician, practitioner, or provider's liens

AB 1513 – Williams
Workers’ compensation: professional athletes.

Chapter 754, Statutes of 2015

This bill codifies case law on piece rate wages and provides employers with an affirmative defense for any action that seeks back wages, penalties, or liquidated damages relating to an employer’s failure to timely pay compensation due for rest periods, recovery periods, and nonproductive time, including to paying less than the minimum wage or having an inaccurate wage stub.

Specifically, AB 1513:

- 1) Codifies the *Gonzalez* and *Bluford* decisions that nonproductive time, rest breaks, and recovery breaks are separately compensated;
 - 2) Codifies that, for rest and recovery periods, the rate of compensation is the higher of the average hourly rate or the applicable minimum wage;
 - 3) Codifies that, for nonproductive time, the rate of compensation is not less than the minimum wage; and
 - 4) Codifies how nonproductive time, rest breaks, and recovery break compensation is calculated.
 - 5) Allows employers to utilize an affirmative defense against claims of an employer’s failure to timely pay compensation due for rest periods, recovery periods, and nonproductive time if the alleged failure occurred between July 1, 2012 and December 31, 2015 if the employer:
 - a) Make payments to all current and former piece-rate employees for uncompensated or undercompensated rest and recovery periods and nonproductive time, plus interest, from July 1, 2012 to December 31, 2015; **or**
 - b) Make payments to all current and former piece-rate employees in an amount equal to 4% of the gross earnings from July 1, 2012 to December 31, 2015. Deductions for previous separate payments for rest, recovery, and nonproductive time are permitted, but must not exceed 1% of the employee’s gross earnings during the same period.
 - c) Provides a statement to the current and former employees that shows the calculation of hours worked and how the employer determined the wages due;
 - d) Provides payment to the current and former employees no later than December 15, 2016;
 - e) Provide notice to the Labor Commissioner on the employer’s election to make payments to current and former employees by July 1, 2016; and
 - f) Preserves all records of hours worked, calculations of hours worked, and records of make whole payments to employees until December 16, 2020, and also furnish these records to the current or former employee upon request.
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AB 1542 – Mathis
Workers’ compensation: neuropsychologists.

Vetoed

This bill would have permitted the Division to appoint qualified clinical neuropsychologists as Qualified Medical Evaluators (QMEs).

AB 1643 – Gonzalez
Workers’ compensation: permanent disability apportionment.

Vetoed

This bill would have prohibited apportionment in cases of physical injury based on pregnancy, menopause, osteoporosis, and carpal tunnel syndrome and requires that breast cancer not be less than the comparable impairment rating for prostate cancer

AB 2086 – Cooley
Workers’ compensation: neuropsychologists.

Vetoed

This bill would have permitted the Division of Workers’ Compensation to appoint qualified clinical neuropsychologists as Qualified Medical Evaluators (QMEs).

AB 2503 – Obernolte
Workers’ compensation: utilization review.

Chapter 885, Statutes of 2016

This bill requires that all physician requests for authorization (RFA), with supporting documentation, be sent directly to the claims administrator for the employer or insurer, unless otherwise indicated by rules promulgated by the administrative director.

AB 2883 – Assembly Committee on Insurance
Workers’ compensation: employees.

Chapter 205, Statutes of 2016

This bill specifies how officers and members of boards of directors at private corporations and managing members and general partners of Limited Liability Companies (LLCs) elect to not be covered by workers’ compensation policies.

SB 542 – Mendoza**Workers' compensation: medical provider networks: fee schedules.***Chapter 542, Statutes of 2015*

This bill is an omnibus workers' compensation clean-up bill that makes a number of technical, clarifying, or noncontroversial changes to the workers' compensation laws.

SB 559 – Block**Workers' compensation: public employees.***Assembly Insurance Committee Hearing Canceled at Request of Author*

This bill would have extended "4850 leave" to lifeguards employed on an annual, full-time basis by the City of Imperial Beach.

SB 563 – Pan**Workers' compensation: utilization review.***Moved to the Assembly Inactive File*

This bill would have prohibited physician incentive contracts and agreements on the basis of modifying or denying care in the California workers' compensation system and would have authorized the administrative director to review any compensation agreement, payment schedule, or contract between the employer, or any entity conducting utilization review on behalf of the employer, and the utilization review physician. The bill would have made any information disclosed to the administrative director confidential and not subject to public disclosure, except as specified

SB 623 – Lara**Workers' compensation: benefits.***Chapter 290, Statutes of 2015*

This bill restates and reinforces existing law on the right of undocumented workers to be eligible for benefits from the Uninsured Employers Benefits Trust Fund (UEBTF) and the Subsequent Injuries Benefit Trust Fund (SIBTF).

SB 897 – Roth
Workers’ compensation.

Vetoed

This bill would have granted an additional year of injury leave for police officers, firefighters, or sheriffs if they suffer a “catastrophic injury at the hands of another” during active duty or through active firefighting operations.

SB 914 – Mendoza
Workers’ compensation: medical provider networks: independent medical reviews.

Chapter 84, Statutes of 2016

This bill strikes an out-of-date reference to the American College of Occupational and Environmental Medicine’s Occupational Medicine’s Practice Guidelines in the California Labor Code.

SB 1175 – Mendoza
Workers’ compensation: requests for payment.

Chapter 214, Statutes of 2016

This bill requires that, for physicians treating injured workers in California’s workers’ compensation system, requests for payments for medical services or medical-legal services must be submitted within 12 months, as specified.

SB 1160 – Mendoza
Workers' compensation.

Chapter 868, Statutes of 2016

This Bill makes a series of significant, wide-ranging changes to the operation and UR processes, approval of UR processes, and lien filing and collection. Specifically, this bill:

- 1) Provides that, with respect to medical treatment that is provided through a medical provider network (MPN), a health care organization (HCO), other employer-directed provider, or a pre-designated physician, no prospective UR may be undertaken for the first 30 days of treatment.
 - 2) Provides several exceptions to the “no UR” rule, including surgery, medications not covered by the formulary, psychological treatment, non x-ray imaging, durable medical equipment if total costs for all DME exceeds \$250, and home health care services.
 - 3) Explicitly prohibits an employer or claims administrator from providing a UR organization with financial incentives to deny or modify treatment.
 - 4) Requires any UR organization to be accredited by an entity specified by the DWC, subject to exceptions for certain public entities that have internal systems approved by the DWC. The entity must be independent and non-profit.
 - 5) Requires the AD to develop a mandatory electronic system for sharing documents necessary to conduct UR.
 - 6) Provides that the medical treatment utilization schedule (MTUS) may be updated with evidence-based medicine standards by an expedited process.
 - 7) Requires, for liens filed on or after January 1, 2017, or until July 1, 2017 for prior liens, a lien filer to specify in the lien filing the basis upon which the lien is authorized, and requires the filing these same data elements to be added to pre-existing liens.
 - 8) Provides that in the event a lien filer is charged with workers' compensation fraud, Medi-Cal fraud, or Medicare fraud, all liens are stayed pending resolution of the charges.
 - 9) Prohibits, for liens on or after January 1, 2017, any assignment of liens unless the person has ceased doing business in the capacity held at the time the expenses were incurred and has assigned all rights, title, and interest in the remaining accounts receivable to the assignee. The assignment of a lien, in violation of this paragraph is invalid.
 - 10) Clarifies existing law on liens assigned between 2013 and 2016 by codifying *Chorn v. WCAB* (2016), 2016 Cal. App. LEXIS 232 and states these amendments to be declaratory of existing law.
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Leave: Family, Medical & Other

AB 304 – Gonzalez

Sick leave: accrual and limitations

Chapter 67, Statutes of 2015

This bill amended the Health Workplaces, Healthy Families Act of 2014 to provide clarification regarding which workers are covered, how the paid time off is accrued, and protections for employers that already provide paid sick leave. The Healthy Workplaces, Healthy Families Act of 2014 provides, among other things, that an employee who, on or after July 1, 2015, works in California for 30 or more days within a year from the commencement of employment is entitled to paid sick days for prescribed purposes, to be accrued at a rate of no less than one hour for every 30 hours worked.

SB 406 – Jackson

Employment: leave.

Vetoed

This bill would have expanded the California Rights Act by adding additional family members for permissible protected family and medical leave. This bill would have included “child” to include the son or daughter of a domestic partner and removes the provision regarding age and dependent status of the child and a sibling, grandparent, grandchild, domestic partner, or parent-in-law with a serious health condition. The bill would have also allowed parents, when employed by the same employer, to be granted up to 12 weeks of leave individually rather than between both parents, removing an exception currently in existing law.

SB 579 – Jackson

Employees: time off

Chapter 802, Statutes of 2015

This bill expanded on the currently authorized reasons for which an employee can take job-protected time off of work without the fear of discrimination or discharge under the Family School Partnership Act by allowing workers to take time off work to 1) find, enroll, or reenroll his or her child in a school or with a licensed child care provider, and 2) to address a child care provider or school emergency, as defined. This bill also revised provisions of the existing “kin care” law to be consistent with the provisions under the paid sick days law to clarify that “family member” includes the individuals already covered in existing law and that the worker can take sick leave for the reasons currently specified in law.

SB 1166 and SB 654 – Jackson
Unlawful employment practice: parental leave

Vetoed

SB 1166 would have prohibit an employer, as defined, from refusing to allow an employee with more than 12 months of service with the employer, and who has at least 1,250 hours of service with the employer during the previous 12-month period, to take up to 12 weeks of parental leave to bond with a new child within one year of the child’s birth, adoption, or foster care placement. The bill would also prohibit an employer from refusing to maintain and pay for coverage under a group health plan for an employee who takes this leave. SB 1166 failed passage in the Assembly Labor and Employment Committee. The author gut and amended SB 654, which originally dealt with hazardous waste, to instead include the contents of SB 1166. The following are the differences between SB 1166 and SB 654: 1) reduced the parental leave time from 12 weeks to six weeks; 2) increased the employer threshold from those employing 10 or more employees to 20 or more; 3) specified that the provisions do not apply to a school district, county office of education, or a community college district; 4) specified that the provisions do not apply to an employee subject to both California Family Rights Act and the federal Family and Medical Leave Act (both applicable to employers of 50 or more employees); 5) specified that in cases where two employees are entitled to leave for the same child, the employer is not required to grant simultaneous leaves to both; and 6) specified that the provisions shall become operative on January 1, 2018.

Farm Labor Contractors, Labor Contracting & Agricultural Labor Relations

AB 20 – Alejo

Undocumented workers: California Agricultural Act

Held in Senate Appropriations Committee

This bill would have required the Labor and Workforce Development Agency and the Department of Food and Agriculture to convene a working group to consult with the United States Department of Homeland Security and the United States Department of Justice in order to determine the legal roles and responsibilities of federal and state agencies in implementing a program to provide undocumented persons who are agricultural employees with a permit to work and live in California. The bill would require the Governor, using the report, to either make a formal request to the federal government to implement a program to provide undocumented persons who are agricultural employees with a permit to work and live in California, or issue an explanation as to why a formal request was not made and make recommendations to the Legislature for how a program to provide undocumented persons who are agricultural employees with a permit to work and live in California should be structured.

AB 561 – Campos

Agricultural labor relations.

Vetoed

This bill would have created an expedited process from the enforcement of monetary penalties ordered by the Agricultural Labor Relations Board (ALRB) and also requires agricultural employers to post a bond if they wish to appeal a final order in the amount equal to the economic value of the monetary penalties.

AB 2068 – Holden

Talent services.

Chapter 245, Statutes of 2016

This bill updates existing communication and contractual protections in the Talent Services Act to include new technologies, such as the mobile applications.

SB 702 – McGuire

Employment of minors: agricultural packing plants.

Chapter 775, Statutes of 2016

This bill extends a Lake County-specific exemption of child labor law that allows minors to work during the peak agricultural season when school is not in session until January 1, 2022.

SB 978 – Vidak

Employment of minors: agricultural packing plants.

Returned to Secretary of Senate Pursuant to Joint Rule 56

This bill would have created a state-wide exemption from child labor laws for agricultural packing plants, similar to an existing exemption for Lake County.

Public Works & Prevailing Wage

AB 219 – Daly

Public works: concrete delivery.

Chapter 739, Statutes of 2015

This bill expanded the definition of ‘public works’ to include the hauling and delivery of ready-mixed concrete, as specified. The bill provides that “ready-mixed concrete” means concrete that is manufactured in a factory or batching plant, according to a set recipe, and then delivered in a liquefied state by mixer truck for immediate incorporation into a project and that the applicable prevailing wage rate shall be the current prevailing wage rate as determined for the geographic area in which the factory or batching plant is located. The bill also states that this section applies to public works contracts that are awarded on or after July 1, 2016.

AB 251 – Levine

Public works: public subsidies.

Vetoed

This bill would have provided a statutory definition for a “de minimis” public subsidy that does not trigger the requirements of prevailing wage law. Specifically, this bill defines “de minimis” to mean a public subsidy that is both less than \$250,000 and less than two percent of the total project cost and will not apply to a project that was advertised for bid, or a contract that was awarded, before July 1, 2016.

AB 326 – Frazier

Public works: prevailing wage rates: wage and penalty assessments.

Chapter 345, Statutes of 2016

This bill requires that funds held as collateral by the Department of Industrial Relations pending a prevailing wage proceeding be released back to the contractors who deposited them within 30 days of the conclusion of the proceeding.

AB 327 – Gordon

Public works: volunteers.

Chapter 53, Statutes of 2015

This bill extends the sunset date on the exemption that allows volunteers to perform work on public works projects and not be paid the prevailing wage, as would otherwise be required.

AB 852 – Burke
Public works: prevailing wages

Chapter 745, Statutes of 2015

This bill expands the definition of “public works” to also include any construction, alteration, demolition, installation, or repair work done under private contract on a project for a general acute care hospital, as specified, when the project is paid for, in whole or in part, with the proceeds of conduit revenue bonds issued by a public agency on or after January 1, 2016.

AB 1926 – Cooper
Public works: prevailing wage: apprentices

Chapter 746, Statutes of 2016

This bill requires contractors, unless otherwise provided by a collective bargaining agreement, when requesting the dispatch of an apprentice to perform work on a public works project and requiring the apprentice to fill out an application, or undergo testing, training, an examination, or other pre-employment process as a condition of employment, to pay the apprentice for time spent on the required activity at the prevailing wage rate for apprentices. The bill specifies that a contractor is not required to compensate an apprentice for the time spent on preemployment activities if the apprentice is required to take a preemployment drug or alcohol test and he or she fails to pass that test.

SB 432 – Mendoza
Public works: aliens

Chapter 160, Statutes of 2015

This bill deleted the definition of “alien” from the Labor Code to describe any person who is not a born or fully naturalized citizen of the United States. This bill also deleted a prescribed order for the issuance of employment under public works contracts in the limited instance of extraordinary unemployment, as specified.

SB 581 – Cannella
Public contracts: prevailing wage

Returned to the Secretary of the Senate

This bill would have expanded the definition of “public works,” for the purposes of the payment of prevailing wages, to also include any construction, alteration, demolition, installation, or repair work done under public or private contract that satisfies specified conditions related to the construction or maintenance of solar photovoltaic energy generating capacity, as prescribed. Existing law defines “public works,” for purposes of regulating public works contracts, to include, among other things, construction, alteration, demolition, installation, or repair work done under contract and paid for, in whole or in part, out of public funds.

SB 954 – Hertzberg**Public works: prevailing wage: per diem wages.***Chapter 231, Statutes of 2016*

This bill redefines what benefits employers can pay into as part of their obligation to pay workers on public works projects the prevailing wage. Specifically, this bill qualifies certain prevailing wage benefit payments only if they are made by an employer obligated to do so pursuant to a collective bargaining agreement. This bill also applies this same standard to employer payments to benefits that are merely similar to those described under existing law. Lastly, this bill does not allow employers to take credit for paying workers the prevailing wage if the abovementioned conditions are not met

Wages & Work Hours

AB 67 – Gonzalez

Double Pay on the Holiday Act of 2016

Failed concurrence in Senate Amendments

This bill would have enacted the Double Pay on the Holiday Act of 2016 requiring a grocery or retail store establishment employer to pay two times the regular rate of pay to an employee for work on Thanksgiving Day. This bill defines grocery store establishment and retail store establishment and, among other things, specifies that a retail store establishment does not include a retail store located in an amusement park.

AB 1042 – Cooper

Proprietary security services.

Vetoed

This bill would have allowed temporary services employers to pay temporary private security officers based on a workweek (Friday-Thursday) rather than a calendar week (Sunday-Saturday), as well as expanded the definition of a proprietary private security officer.

AB 1066 – Gonzalez

Agricultural workers: wages, hours, and working conditions

Chapter 313, Statutes of 2016

This bill removes an exemption in current law that extends the payment of overtime compensation to agricultural employees after eight hours of work in a day or 40 in a week in a phased in implementation, over the course of 4 years, from 2019 to 2022. The bill provides employers who employ 25 or fewer employees an additional 3 years to comply with the phasing in of these overtime requirements. The bill would authorize the Governor to delay the implementation of these overtime pay provisions if the Governor also suspends the implementation of a scheduled state minimum wage increase, as specified. The bill would require the Department of Industrial Relations to update a specified wage order for consistency with these provisions, as specified.

AB 1311 – Cooper

Temporary services employees: wages.

Chapter 61, Statutes of 2016

This bill allows temporary services employers to pay temporary private security officers based on a workweek (Friday-Thursday) rather than a calendar week (Sunday-Saturday).

AB 2230 – Chu

Overtime compensation: private elementary or secondary academic institutions: teachers.

Chapter 314, Statutes of 2016

This bill creates a new overtime exemption for private school teachers that is tied to comparable public school teacher salaries, rather than the state minimum wage.

AB 2535 – Ridley-Thomas

Employment: wages: itemized statements.

Chapter 77, Statutes of 2016

This bill clarifies wage stub reporting requirements for exempt employees.

AB 2899 – Hernández

Minimum wage violations: challenges.

Chapter 622, Statutes of 2016

This bill requires that, prior to filing an appeal of a decision by the Labor Commissioner (LC) relating to a violation of wage laws, employers must post a bond with the LC which covers the unpaid wages and damages owed to employees.

SB 3 – Leno

Minimum wage: in-home supportive services: paid sick days.

Chapter 4, Statutes of 2016

This bill creates a schedule for a phased increase in the minimum wage from \$10.50 per hour to \$15 per hour over 7 years, depending on the size of the employer and general economic conditions, and link the minimum wage to the U.S. Consumer Price Index once the minimum wage reaches \$15 per hour.

This bill also requires paid sick days for In-Home Supportive Services (IHSS) workers and creates a schedule for the annual accrual of paid sick days for IHSS workers.

SB 368 – Berryhill

Employment: work hours.

Failed Passage in the Senate Committee on Labor and Industrial Relations

This bill would have allowed individual employees, on a one-on-one basis, to request an alternative workweek schedule from their employer and given employers the final say in approving these individual alternative workweek requests from their employees without the requirement of a secret ballot election by the entire work unit.

SB 878 – Leyva
Work hours: scheduling

Held in Senate Appropriations Committee

This bill would have required an employer, which includes a grocery store establishment, restaurant, or retail store establishment, to provide its employees with a work schedule at least 7 calendar days prior to the first shift on that work schedule, except as specified. The bill also would have required an employer, except as specified, to pay its employees modification pay for each previously scheduled shift that the employer cancels or moves to another date or time, for any previously unscheduled shift that the employer requires an employee to work, or for each on-call shift for which an employee is required to be available but is not called in to work that shift. Among other things, this bill would have authorized the Labor Commissioner to impose specified administrative fines for violations and would authorize the commissioner, the Attorney General, an employee or person aggrieved by a violation of these provisions, or an entity a member of which is aggrieved by a violation of these provisions to recover specified civil penalties against an offender who violated these provisions on behalf of the aggrieved, as well as attorney's fees, costs, and interest.

SB 985 – Berryhill
Employment: work hours.

Failed Passage in the Senate Committee on Labor and Industrial Relations

This bill would have allowed individual employees, on a one-on-one basis, to request an alternative workweek schedule from their employer. This bill would also have required the Division of Labor Standards Enforcement (DLSE) to develop an alternative workweek schedule request form to be utilized by employees and kept on file by employers and the DLS. This bill also requires a report from the DLSE which describes employee experiences relating to alternative workweek schedules, including the total number requested by employees.

SB 1015 – Leyva
Domestic work employees: labor standards

Chapter 315, Statutes of 2016

This bill deletes the January 1, 2017 repeal date on the provisions under the Domestic Worker Bill of Rights which requires the payment overtime compensation for domestic workers after 9 hours in one day or after 45 hours a week, thereby making the requirement permanent.

SB 1245 – Anderson
Industrial Welfare Commission: wage orders: hours worked.

Hearing Cancelled at the Request of Author

This bill would have permitted an exemption for the health care industry that would allow employees not to be paid for time spent sleeping on-site during shifts of 24 hours or more.

Retaliation, Abusive Conduct & Discrimination

AB 465 – Hernandez

Contracts against public policy

Vetoed

This bill would have prohibited any person from requiring another person, as a condition of employment, to agree to the waiver of any legal right, penalty, forum, or procedure for any employment law violations. The bill would have prohibited a person from threatening, retaliating against, or discriminating against another person based on a refusal to agree to such waiver, and would provide that any such waiver required from an employee or potential employee as a condition of employment or continued employment is unconscionable, against public policy, and unenforceable.

AB 676 – Calderon

Employment: discrimination: status as unemployed

Vetoed

This bill would have prohibited an employer from 1) publishing an advertisement or announcement for a job that includes a provision stating or indicating that an unemployed person is not eligible; and 2) asking an applicant to disclose the applicant's employment status until the employer has determined that he/she meets the minimum employment qualifications for the position.

AB 1509 – Hernandez

Employees: protected disclosures and complaints: retaliation

Chapter 792, Statutes of 2015

This bill extends current employment retaliation protections to an employee who is a family member of a person who engaged in, or is perceived to have engaged in, legally protected conduct. This bill also exempts household goods carriers from the client employer and labor contractor liability provisions in law.

AB 1676 – Campos

Employers: wage discrimination.

Chapter 856, Statutes of 2016

This bill clarifies that prior salary, by itself, cannot be used to justify any disparity in compensation between men and women

AB 1978 – Gonzalez

Employment: property service workers.

Chapter 373, Statutes of 2016

This bill creates a registration process for janitorial employers and requires sexual harassment and violence prevention training for janitorial workers

SB 1001 – Mitchell

Employment: unfair practices

Chapter 782, Statutes of 2016

This bill prohibits an employer from requesting more or different employment authorization documents than are required under federal law, refusing to honor documents tendered, refusing to honor documents or work authorization based upon the specific status or the term of status accompanying the authorization, or reinvestigating or reverifying an incumbent employee's authorization to work. Violation of these provisions could result in a civil penalty of not more than \$10,000 imposed by the Labor Commissioner.

Car Washes

AB 2897 – Hernandez
Relating to car washes

Placed on the Senate Inactive File

This bill requires a car wash employer to provide written notice to a successor employer regarding the requirements of existing law prior to the sale or other transfer of the business.

Other legislation: Withdrawn from Committee and 29.10's

AB 520 – Levine **Apprenticeship.**

As original introduced, this bill would have revised the annual report filed by the Division of Apprenticeship Standards (DAS) and the California Apprenticeship Council (CAC) to include any apprenticeship standards or regulations that were proposed or adopted in the previous year. AB 520 was later amended to address safety standards for corrosion prevention work.

AB 795 – Low **Employment: Department of Industrial Relations: wage claims and retaliation complaints.**

As original introduced, this bill would have requires the Division of Labor Standards Enforcement (DLSE) to include a section on the status of wage and retaliation claims in their annual report. AB 795 was later amended to address a tribal gaming compact.

AB 1282– Gray **Firefighters: disability.**

As original introduced, this bill would extended “4850 leave” to firefighters employed by the Department of Forestry and Fire Protection, regardless of whether the firefighter is assigned by the department to a position in fire prevention, fire suppression, or other capacity. AB 1282 was later amended to address a tribal gaming compact.

AB 1505 – Hernandez **Car washes.**

This bill would have required a car wash employer to provide written notice to a successor employer regarding the car wash labor code provisions, such as owed wages and penalties, prior to the sale or other transfer of the business. The bill was amended out of the California Labor Code and into the Public Contract Code and was referred to the Senate Rules Committee.

AB 1507 – Hernandez **California Workforce Investment Act**

This bill updates statutory references to the federal Workforce Investment Act of 1998 to instead refer to the recently enacted federal Workforce Innovation and Opportunity Act and makes related conforming changes. This bill was later gut and amended to address an issue within Penal Code.

AB 1513 – Assembly Insurance Committee
Workers’ compensation: studies.

As original introduced, this bill would have deleted three obsolete study requirements. AB 1513 was later amended to address piece rate wages.

AB 2896 – Hernandez
Private Employment

As originally introduced, would have authorized the Labor Commissioner to accept a credit card charge as a method of payment for farm labor contractor license fees, as provided.

SB 45 – Mendoza
Workforce development: federal Workforce Innovation and Opportunity Act

As originally introduced, this bill would have made necessary changes to existing workforce development statutes to conform to the new federal guidelines under the Workforce Innovation and Opportunity Act (WIOA). The bill was gut and amended in the second house to address a Political Reform Act issue dealing with mass mailings sent with the use of public funds.

SB 522 – Mendoza
Workers’ compensation: advertisements.

As originally introduced, this bill would have differentiated between two processes in California’s workers’ compensation system that are both known as “Independent Medical Review”. SB 522 was later amended to address the Los Angeles County Metropolitan Transportation Authority.

SB 693 – Hueso
Public contracts: skilled and trained workforce.

Chapter 774, Statutes of 2016

As originally introduced, this bill would have increased, from \$10,000 to \$50,000, the maximum monetary penalty for violation of the conflict-of-interest and incompatible-activities provisions of the statute that created the California Energy Commission. SB 693 was later amended to consolidate the "skilled and trained workforce" requirements of various provisions of existing law related to alternative construction delivery methods, define the terms of these requirements, and make other conforming changes.

SB 1379 – Mendoza**Workers' compensation: depositions: interpreters.**

As original introduced, this bill would have required that certified interpreters at a workers' compensation hearing or deposition state the same specific information on the record as certified interpreters at a court proceeding. SB 1379 was later amended to address community college temporary employees.

AJR 12 –**H-1B Visa program: investigation of misuse*****Placed on the Senate Inactive File***

This resolution would have urged the United States Department of Labor and the Congress of the United States to investigate alleged misuse of the H-1B Visa program.
