

California Labor and Employment Legislation

October 13, 2013, marked the last day for California Governor Jerry Brown to sign or veto bills the Legislature sent to him for approval in the first half of the 2013-14 Regular Session. Of the bills we tracked of highest relevance to our clients that made it to the Governor's desk, the vast majority—18 of 23—will become law. Below we summarize each of these bills, as well as “two-year bills,” i.e., bills that did not make it to the Governor's desk and that may resurface in 2014.

Follow our Cal Pecs blog www.calpecs.com for more in-depth analysis of how some of the new legislation may affect employers doing business in California..

Approved

Minimum Wage Increase

AB 10 Alejo

As discussed in detail in our CalPecs blog, [here](#), this bill will raise the minimum wage in two one-dollar increments, from the current \$8 per hour rate to \$9 per hour effective July 1, 2014. Then to \$10 per hour effective January 1, 2016.

Amends § 1182.2 of the Labor Code.

Approved by the Governor September 25, 2013. Chapter 351 of the Statutes of 2013.

Domestic Worker Bill of Rights

AB 241 Ammiano

This bill enacts the Domestic Worker Bill of Rights to, until January 1, 2017, regulate the hours of certain domestic work employees and provide an overtime compensation rate of one and one-half times the regular rate of pay to those employees who work more than nine hours in any workday or more than 45 hours in any work week. The bill defines domestic work employee as anyone who provides services related to the care of persons in private households, or the 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. Specifically excluded are individuals who care for persons in facilities providing board or lodging in addition to medical, nursing, convalescent, aged, or child care, including, but not limited to, residential care facilities for the elderly.

Adds Part 4.5 (commencing with § 1450) to Division 2 of the Labor Code.

Approved by the Governor September 26, 2013. Chapter 374 of the Statutes of 2013.

Labor Code: Various Changes Relating to Retaliation and Unfair Immigration-Related Practices
AB 263 Hernandez

Similar to SB 666, this bill will:

- Add to the protections of Labor Code § 98.6 the right of an employee to make a written or oral complaint that the employee is owed unpaid wages, and make an employer liable for a penalty of up to \$10,000 for each violation of this section;
- Provide that an employee need not exhaust administrative remedies or procedures to enforce Labor § 98.7;
- Prohibit an employer from retaliating against an employee who provides information to, or testifies before, any public body conducting an investigation, hearing, or inquiry.

This bill also:

- Makes it unlawful for an employer or any other person to engage in, or direct another person to engage in, an unfair immigration-related practice against a person for the purpose or intent to retaliate against any person for exercising any right protected under the Labor Code or local ordinance. "Unfair immigration-related practice" is defined as: (1) requesting more or different documents required under 8 U.S.C. § 1324a(b) or a refusal to honor documents tendered pursuant to that section that on their face reasonably appear to be genuine; (2) using the federal E-Verify system to check the employment authorization status of a person at a time or in a manner not required under 8 U.S.C. § 1324a(b), or not authorized under any memorandum of understanding governing the use of the federal E-Verify system; (3) threatening to file or the filing of a false police report; or (4) threatening to contact or contacting immigration authorities. Excluded is any conduct undertaken at the express and specific direction of the federal government.
- Provides that engaging in an unfair immigration-related practice against a person within 90 days of the person's exercise of rights protected under the Labor Code or local ordinance shall raise a rebuttable presumption of retaliation. Authorizes an employee or any other person subject of an unfair immigration-related practice to sue for equitable relief, damages, and penalties, and provides a prevailing employee attorney's fees and costs. Establishes a three-tier license suspension scheme for violations found by a court.
- Prohibits an employer from discharging an employee or in any manner discriminating, retaliating, or taking any adverse action against an employee because the employee updates or attempts to update the employee's personal information, unless the changes are directly related to the skill set, qualifications, or knowledge required for the job.

Amends §§ 98.6, 98.7, 1102.5, and 1103 of, adds § 1024.6 to, and adds Chapter 3.1 (commencing with § 1019) to Part 3 of Division 2 of, the Labor Code.

Approved by the Governor October 11, 2013. Chapter 732 of the Statutes of 2013.

Wages: Liquidated Damages
AB 442 Nazarian

This bill expands existing law (which already subjects an employer who pays an employee less than minimum wage to a citation requiring restitution and a civil penalty) by now making the employer also subject to liquidated damages.

Amends §§ 1194.2 and 1197.1 of the Labor Code.

Approved by the Governor October 11, 2013. Chapter 735 of the Statutes of 2013.

Youth Sports: Criminal Background Checks
AB 465 Maienschein

This bill authorizes a community youth athletic program to request state and federal level criminal history information from the Department of Justice for a volunteer coach or hired coach candidate.

Amends § 11105.3 of the Penal Code.

Approved by the Governor August 26, 2013. Chapter 146 of the Statutes of 2013.

Artistic Employment Contracts: Minors Trust Exemption

AB 533 Calderon

As discussed in detail in our CalPecs blog, [here](#), this bill exempts employers of minors under contracts for artistic employment for services as an extra, background performer, or in a similar capacity (including actors, dancers, musicians, comedians, singers, stunt-persons, voice-over artists, or sports players) from a requirement that the employer set aside 15% of the minor's gross earnings in trust for the benefit of the minor.

Amends § 6752 of the Family Code.

Approved by the Governor August 14, 2013. Chapter 102 of the Statutes of 2013.

Fair Employment and Housing: Military Veterans

AB 556 Salas

This bill adds "military and veteran status" to the list of categories already protected from employment discrimination under FEHA. The new protected category is defined to include members or veterans of the United States Armed Forces, Armed Forces Reserve, National Guard, and the California National Guard. The bill also provides an exemption for an inquiry by an employer regarding military or veteran status for the purpose of awarding a veteran's preference as permitted by law.

Amends §§ 12920, 12921, 12926, and 12940 of the Government Code.

Approved by the Governor October 10, 2013. Chapter 691 of the Statutes of 2013.

Garment Manufacturing: Civil Penalties

AB 1384 Committee on Labor and Employment.

This bill makes any person engaged in business and registered as a garment manufacturer who fails to display his or her name, address, and garment manufacturing registration number on the front entrance of his or her business—as required by existing law—subject to a civil penalty in the amount of \$100 for an initial violation and \$200 for each subsequent violation for each calendar day that the person engages or has engaged in garment manufacturing. The penalty may be contested by following Labor Code section 2681 procedures.

Adds § 2676.55 to the Labor Code.

Approved by the Governor September 9, 2013. Chapter 308 of the Statutes of 2013.

Employee Complaints: Final Orders

AB 1386 Hernández, Alejo, Chau, and Holden

Under existing law, the Labor Commissioner (LC) must file an order, decision, or award within 15 days of hearing an employee complaint; then, within 10 days of the order, the LC must file the final order with the superior court clerk, which then enters judgment. This bill provides an alternative to a lien after judgment. Upon an order becoming final, a lien would be created and recorded by the LC, which continues on the employer's real property until satisfied or released or for 10 years.

Amends § 98.2 of the Labor Code.

Approved by the Governor October 11, 2013. Chapter 750 of the Statutes of 2013.

Car Washes

AB 1387 Hernández

Existing law requires employers of car washes to post a \$15,000 bond for the benefit of the state to compensate employees damaged by the employer's nonpayment of wages. This bill increases the employer's bond requirement amount to \$150,000, but exempts an employer from that requirement if the employer has a collective bargaining agreement that expressly provides for wages, hours of work, working conditions, and expeditious process to resolve disputes concerning nonpayment of wages.

Amends § 2055 of, and repeals § 2067 of, the Labor Code.

Approved by the Governor October 11, 2013. Chapter 751 of the Statutes of 2013.

Farm Labor Contractors: Successor Liability for Wages and Penalties
SB 168 Monning

This bill makes a farm labor contractor successor liable for wages or penalties that a predecessor farm labor contractor owed to former employees if the successor: (1) uses substantially the same facilities or workforce to offer substantially the same services as the predecessor, with certain defenses; (2) shares in the ownership, management, control of the workforce, or interrelations of business operations with the predecessor; (3) employs in a managerial capacity any person who directly or indirectly controlled the wages, hours, or working conditions of the employees owed wages or penalties by the predecessor; or (4) 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.

According to the Cal Chamber, this bill creates potential liability for successors despite the lack of fair notice or continuity between the business of the successor and predecessor.

Adds § 1698.9 to the Labor Code.

Approved by the Governor October 10, 2013. Chapter 715 of the Statutes of 2013.

Employment Protections: Time Off for Victims of Crimes to Testify
SB 288 Lieu

This bill prohibits an employer from discharging, discriminating, or retaliating against an employee who is a victim of specified offenses for taking time off from work to appear in court to be heard at any proceeding in which a right of the victim is at issue. The employee must give reasonable advance notice, unless not reasonable. The specified offenses include vehicular manslaughter while intoxicated, felony child abuse likely to produce great bodily harm or a death, 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, solicitation for murder, "serious felony", hit-and-run causing death or injury, felony driving under the influence causing injury, and sexual assault. "Victim" includes the employee or the employee's spouse, parent, child, sibling, or guardian. The bill also specifies what information the employer must consider sufficient to certify the absence, including a police report, court order, or medical documentation.

This bill entitles any employee who is discharged, discriminated, or retaliated against in violation of this provision to reinstatement and reimbursement for lost wages and work benefits, and authorizes the employee to file a complaint with the DLSE within one year of the alleged violation.

Adds § 230.5 to the Labor Code.

Approved by the Governor October 11, 2013. Chapter 756 of the Statutes of 2013.

Employment: Sexual Harassment
SB 292 Corbett

As discussed in detail in our CalPecs blog, [here](#), this bill clarifies the definition of harassment because of sex in the Fair Employment and Housing Act to specify that sexually harassing conduct need not be motivated by sexual desire.

Amends § 12940 of the Government Code.

Approved by the Governor August 12, 2013. Chapter 88 of the Statutes of 2013.

Employee Wage Withholdings: Failure to Remit to Agency
SB 390 Wright

Under existing law, it is a crime punishable by jail or a fine of up to \$1,000 for an employer to willfully or with intent to defraud fail to make agreed-upon payments to health and welfare funds, pension funds, or various benefit plans. This bill

additionally makes it a crime for an employer to willfully or with intent to defraud fail to remit to the appropriate agency withholdings from an employee's wages that were made pursuant to state, local, or federal law.

Amends § 227 of the Labor Code.

Approved by the Governor October 10, 2013. Chapter 718 of the Statutes of 2013.

Employment Protections: Victims of Domestic Violence, Sexual Assault, or Stalking
SB 400 Jackson

Existing law prohibits employers from taking adverse employment action against victims of domestic violence and sexual assault who take time off from work to attend to related issues. This bill extends the same protections to victims of stalking. The bill requires the employer to engage in the interactive process and provide reasonable accommodations—absent undue hardship—for a victim of domestic violence, sexual assault, or stalking who requests an accommodation for his or her safety while at work, who has disclosed his or her status as a victim. The employer may require certification of the employee's continued victim status for the reasonable accommodation.

This bill also entitles any employee who is discharged, discriminated, or retaliated against in violation of this provision to reinstatement and reimbursement for lost wages and work benefits.

Amends §§ 230 and 230.1 of the Labor Code.

Approved by the Governor October 11, 2013. Chapter 759 of the Statutes of 2013.

Meal and Rest Periods: "Recovery Periods"
SB 435 Padilla

This bill expands prohibitions on work during meal and rest periods, and the one hour of premium pay for failure to provide a period, to also include "recovery periods," defined as a cooling-down period afforded an employee to prevent heat illness.

Amends § 226.7 of the Labor Code.

Approved by the Governor October 10, 2013. Chapter 719 of the Statutes of 2013.

Unpaid Wage Actions: Employer Recovery of Defense Costs
SB 462 Monning

As discussed in detail in our CalPecs blog, [here](#), this bill provides that a prevailing employer can recover its defense costs in defending an employee's claim for unpaid wages only if the employer proves to the court that the employee brought the action "in bad faith," which will probably mean something like "the claim was brought with knowledge that it was baseless or with intent to harm the employer." The amendment was prompted by a 2012 California Supreme Court ruling holding that a prevailing employer in a meal-rest penalties case could not recover attorneys' fees because such penalties are not "wages" and the Labor Code statutes permit fee recovery only in actions involving wages. *Kirby v. Immoos Fire Protection*, 53 Cal. 4th 1244 (2012).

Amends § 218.5 of the Labor Code.

Approved by the Governor August 26, 2013. Chapter 142 of the Statutes of 2013.

Criminal Offenders: Rehabilitation
SB 530 Wright

Existing law prohibits an employer from asking an applicant for employment to disclose information concerning an arrest or detention that did not result in conviction, or information concerning a referral to, and participation in, any pretrial or post trial diversion program.

This bill additionally prohibits an employer from asking an applicant to disclose, or from utilizing as a factor in determining any condition of employment, information concerning a conviction that has been judicially dismissed or ordered sealed. This bill creates exceptions to these prohibitions if: (1) the employer is required by law to obtain information regarding conviction of an applicant; (2) the applicant would be required to possess or use a firearm in the course of his or her employment; (3)

an individual who has been convicted of a crime is prohibited by law from holding the position sought by the applicant, regardless of whether that conviction has been expunged, judicially ordered sealed, statutorily eradicated, or judicially dismissed following probation; and (4) the employer is prohibited by law from hiring an applicant who has been convicted of a crime.

Amends § 432.7 of the Labor Code, and adds § 4852.22 to the Penal Code.

Approved by the Governor October 10, 2013. Chapter 721 of the Statutes of 2013.

**Employment: Various Changes Including Retaliation Based on Immigration/Citizenship Status
SB 666 Steinberg**

This bill makes various changes to the Business and Professions Code and Labor Code, including the following:

1. subject an employer's business license to revocation or suspension if the licensee has been determined by the Labor Commissioner or the court to have violated the provisions that would be added to the Labor Code described in (5) below, and the court or Labor Commissioner has taken into consideration any harm such suspension or revocation would cause to employees of the licensee, as well as the good faith efforts of the licensee to resolve any alleged violations after receiving notice;
2. subject to suspension, disbarment, or other discipline any member of the State Bar who reports suspected immigration status or threatens to report suspected 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;
3. similar to AB 263, add retaliation or taking any adverse action and making a written or oral complaint that the employee is owed unpaid wages to Labor Code § 98.6's prohibitions on discrimination, and make an employer liable for a penalty of up to \$10,000 for each violation of this section;
4. similar to AB 263, provide that an employee is not required to exhaust administrative remedies or procedures to bring a civil action under any Labor Code provision that does not expressly require exhaustion of an administrative remedy;
5. make it an adverse action for purposes of establishing a violation of an employee's rights an employer's reporting or threatening to report an employee's, former employee's, or prospective employee's suspected citizenship or immigration status, or the suspected citizenship or immigration status of a family member of the employee, former employee, or prospective employee, to a federal, state, or local agency because the employee, former employee, or prospective employee exercises a right under the provisions of the Labor, Government, or Civil Code;
6. similar to AB 263, prohibit an employer from preventing or retaliating against an employee who provides information to, or testifies before, any public body conducting an investigation, hearing, or inquiry.

Adds §§ 494.6 and 6103.7 to the Business and Professions Code, and amends §§ 98.6 and 1102.5 of, and adds § 244 to, the Labor Code.

Approved by the Governor October 5, 2013. Chapter 577 of the Statutes of 2013.

**Disability Benefits: Paid Family Leave
SB 770 Jackson and DeSaulnier**

This bill, beginning July 1, 2014, expands the definition of family for purposes of family temporary disability wage replacement benefits to include a seriously ill grandparent, grandchild, sibling and parent-in-law with the existing seriously ill child, spouse, parent, domestic partner, or to bond with a minor child within one year of the birth or placement of the child in connection with foster care or adoption.

Amends § 3300 of, and amends, repeals, and adds §§ 2708, 3301, 3302, and 3303 to, the Unemployment Insurance Code.

Approved by the Governor September 24, 2013. Chapter 350 of the Statutes of 2013.

Vetoed

Mass Reductions in Force: Notification to Governor's Office of Business and Economic Development AB 53 Perez

Existing law generally prohibits an employer from ordering a mass layoff, relocation, or termination at a covered establishment without giving 60 days prior written notice to employees, the Employment Development Department, and other local agencies and officials.

This bill would have expanded the list of entities that must be informed, by including the Governor's Office of Business and Economic Development, and would have required the Employment Development Department to post the notice on its website.

Vetoed October 4, 2013. In his veto message, the Governor characterized the provisions of this bill as unnecessary.

Evidentiary Privileges: Union Agent-Represented Worker Privilege AB 729 Hernandez

This bill would have established a new evidentiary privilege between a union agent and a represented employee or represented former employee for any confidential communication made while the union agent is acting in his/her representative capacity.

In vetoing this bill, the Governor stated *"I don't believe it is appropriate to put communications with a union agent on equal footing with communications with one's spouse, priest, physician or attorney. Moreover, this bill could compromise the ability of employers to conduct investigations into workplace safety, harassment and other allegations."*

Vetoed October 11, 2013.

Occupational Safety and Health: Violations AB 1165 Skinner

This bill would have provided that an appeal of a citation or notice issued by the Division of Occupational Safety and Health that is classified and cited as a serious violation, repeat serious violation, willful serious violation, or failure to abate, will not stay abatement dates and requirements, and made other related changes, including an expedited hearing on an employer's request.

According to Cal Chamber, the double-appeal process this bill proposed for workplace safety citations would have been very costly, presumed guilt for employers, undermined due process with regard to citations for workplace safety violations, and is unnecessary in light of recently adopted regulations for an expedited appeals process for these situations.

Vetoed October 13, 2013. In his veto message, the Governor stated:

"I share the author's concern that workplace safety risks need to be abated quickly and not delayed during the appeals process.

Unfortunately, this measure would require the creation of a separate hearing process at the Division of Occupational Safety and Health—duplicating an expedited Cal/OSHA Appeals Board process which was recently adopted.

I am directing Cal/OSHA to consult with the author to make sure the Appeals Board process is working as intended and, if necessary, to recommend any additional administrative or regulatory actions that may be needed."

Foreign Labor Contractors: Registration, Disclosures, and Damages SB 516 Steinberg

This bill would have required—starting July 1, 2015—foreign labor contractors (defined as any person who performs foreign labor contracting activity, including any person who performs foreign labor contracting activity wholly outside the United States, except that the term does not include any entity of federal, state, or local government or any licensed talent agency) to register with the Labor Commissioner and follow additional contractual and bonding requirements.

The bill also would have:

- Required persons who use the services of a foreign labor contractor, beginning July 1, 2015, to disclose certain information to the Labor Commissioner that includes contact information for the person designated to work with the

foreign labor contractor and a declaration regarding a designee to accept service;

- Prohibited a person from knowingly entering into an agreement for the services of a foreign labor contractor that is not registered;
- Required the foreign labor contractor to make certain disclosures to foreign workers at the time of recruitment;
- Subjected any person who violates these provisions to a civil penalty of \$1,000-\$25,000 per violation; and authorizes the Labor Commissioner or an aggrieved person to bring an action for damages in the amount of actual damages or \$500 per employee for an initial violation and \$1,000 per employee for each subsequent violation, plus costs and fees;
- Made foreign labor contractors and the persons who use their services jointly and severally liable for violations.

Vetoed October 11, 2013. In his veto message the Governor stated:

"I am returning Senate Bill 516 without my signature.

This bill seeks to prevent the exploitation of foreign workers— a worthy goal which I support. Unfortunately, the registration and filing fees established by the bill are insufficient to support the ongoing costs of the proposed program.

This funding shortfall would be underwritten by the Labor Enforcement and Compliance Fund, funded from an assessment on employers' workers' compensation premiums.

This shift in costs is inequitable as it would result in all California employers paying a share of the enforcement costs for the regulation of these foreign labor contractors. I request that the Legislature send me a bill in January where the fees generated are sufficient to pay for the costs of the program proposed by this measure."

Fair Employment and Housing Act: "Substantial Motivating Factor" SB 655 Wright

This bill attempted to codify and modify the California Supreme Court's holding in *Harris v. City of Santa Monica*, by providing that a plaintiff shall prevail on a claim of discrimination or retaliation if he or she has proven to the trier of fact that the protected characteristic or activity was a "substantial motivating factor", as defined, in the employment action or decision.

The bill would have provided that if an individual proves a claim of discrimination or retaliation, if an employer pleads and proves that it would have made the same employment action or decision at the same time without considering the protected characteristic or activity, the remedies available to the employee shall be limited to injunctive relief and attorney's fees and costs, including expert witness fees; but also entitle the employee to a statutory penalty of up to twenty-five thousand dollars (\$25,000).

Vetoed October 10, 2013. The Governor deferred to the judgment of his appointee Chief Justice Goodwin Liu, stating that Liu "got it right in his well-reasoned opinion" in *Harris*, and [thus, the Governor] saw no need for Legislative action on the topic."

Two-Year Bills

Homeless Person's Bill of Rights and Fairness Act AB 5 Ammiano

This bill would have created a new category of protected individuals based on "housing status," which would effectively provide protected individuals with a private right of action for damages and possible attorney fees. Cal Chamber opposed.

Adds Part 2.2 (commencing with Section 53.1) to Division 1 of the Civil Code, and amends § 11135 of the Government Code.

Vehicles: Enhanced Driver's License AB 17 Hueso

This bill would have prohibited an employer from requiring an employee to apply for, or use, an enhanced driver's license or identification card as a condition of employment and from discharging an employee or otherwise discriminating or retaliating against an employee who refuses to apply for, or use, an enhanced driver's license or identification card.

Adds Chapter 8 to Division 6 of the Vehicle Code.

Payroll Records: Right to Inspect
AB 155 Alejo

This bill would have required an employee to elect to inspect or receive a copy of his or her payroll records and allowed the employer to only charge the employee for the “actual cost of reproduction” of the records. Former employees terminated for harassment or workplace violence would only be entitled to receive a copy of the records, without any charge by the employer.

Amends § 226 of the Labor Code.

Labor Commissioner: Employee Claims
AB 228 Logue

This bill would have provided that both the Director of the Department of Industrial Relations and the Labor Commissioner, or their deputies, may waive any penalties against an employer, if the employer resolves within 30 days of receiving a notice, as specified, of an employee’s claim. This includes claims for matters such as wage and hour violations, occupational safety violations, loss wages due to demotion, suspension, or discharge by the employer for lawful conduct occurring during nonworking hours away from the employer’s premises. The waiver would not have applied to violations of minimum wage requirements.

Amends §§ 62.1 and 96.1 of the Labor Code.

Flexible Work Schedules
AB 907 Conway

This bill would have permitted an individual nonexempt employee to request an employee-selected flexible work schedule providing for workdays up to 10 hours per day within a 40-hour workweek, and allowed an employer to implement this schedule without the obligation to pay overtime compensation for those additional hours in a workday.

Amends § 510 of, and adds § 511.5 to, the Labor Code.

Liens: Employees and Workers
AB 1164 Lowenthal

This bill would have authorized an employee to enforce a wage lien upon real and personal property of an employer or property owner for wages, other compensation, and related penalties and damages owed to the employee for labor that was performed for the benefit of the property owner with the owner’s consent or knowledge that the labor was being provided. The lien would not have applied to property bought or services furnished primarily for personal, family, or household purposes, including real property that is the residence of the owner. Cal Chamber opposed.

Adds Chapter 3 (commencing with Section 3000) to Title 14 of Part 4 of Division 3 of the Civil Code.

Department of Industrial Relations: Case Management System
AB 1385 Hernandez, Alejo, Chau, and Holden

This legislation would have required the Department of Industrial Relations to procure a case management system that has the capability to provide the public with free, web-based access to a searchable database containing the final disposition of all complaints, citations, and administrative proceedings in compliance with legal requirements regarding the privacy rights of employees and witnesses.

Adds § 59.5 to the Labor Code.

Agricultural Labor Relations: Contract Dispute Resolution
SB 25 Steinberg

This bill would have eliminated Agricultural Labor Relations Act (ALRA) provisions that (1) labor organizations certified after January 1, 2003 have a mandatory mediation process only for an initial request to bargain, and (2) a demand to bargain under the mandatory mediation process for labor organizations certified prior to January 1, 2013 can occur only if the bargaining parties have not had a previous binding contract. The bill would have given an agricultural employer or labor organization the ability to file to enforce a mandatory mediation order from the ALRB even if a party has requested appellate review of the mediation order, and provided that should a party petition for writ of review, the parties must implement the terms of the ALRB’s order in the meantime.

Amends §§ 1164, 1164.3, and 1164.11 of the Labor Code.

Fair Employment: Familial Status
SB 404 Jackson

This bill would have added “familial status” to the list of protected categories under FEHA, defined to include “an individual who provides medical or supervisory care to a family member.” A family member was described as a domestic partner, spouse, child, parent, or parent-in-law.

Amends §§ 12920, 12921, 12926, 12940, and 12955.2 of the Government Code.

Overtime Compensation: Residential Facilities
SB 554 Anderson

This bill would have changed the overtime requirements for employees of 24-hour nonmedical out-of-home licensed residential facilities, and would have authorized overtime pay for all hours worked by those employees in excess of 40 or 48 hours in a workweek, or in excess of 16 hours in a workday.

Adds § 515.3 to the Labor Code.

Flexible Work Hours
SB 607 Berryhill

This bill would have permitted an individual nonexempt employee to request an employee-selected flexible work schedule providing for workdays up to 10 hours per day within a 40 hour workweek and allowed the employer to implement this schedule without the obligation to pay overtime compensation for those additional hours in a workday.

Amends § 510 of, and adds § 511.5 to, the Labor Code.

Hospitals: Workplace Violence Prevention Plan
SB 718 Yee

This bill would have prohibited a hospital from preventing an employee from, or taking punitive or retaliatory action against an employee for, seeking assistance and intervention from local emergency services or law enforcement for a violent incident. The bill would have required a hospital to provide evaluation and treatment for an employee who is injured or is otherwise a victim of a violent incident. The bill would have required a hospital to document and keep for 5 years a written record of all violent incidents against a hospital employee and to report to the division any violent incident, as specified. The bill would have authorized the division to assess a civil penalty against a hospital for failure to report a violent incident, and required the division to post on its Internet Web site a report regarding violent incidents at hospitals and to adopt regulations implementing these provisions by January 1, 2015.

Adds § 6401.8 to the Labor Code.

2013 Legislative Calendar

Jan. 6 —Legislature reconvenes.

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