

California Employment Laws Passed and Pending

California Employment Law Update on September 21, 2022

It just wouldn't be Fall without the passage of a flurry of new laws, shaking up the employment landscape in California. As of the close of the legislative session on August 31, several "job killer" bills (so called by the California Chamber of Commerce as reported [here](#) and [here](#)) passed the state legislature and are awaiting action by Governor Gavin Newsom.

While Governor Newsom lost no time signing some of these bills, including AB 257 (Holden; D-Pasadena) regulating non-unionized fast food workers' wages and working conditions (as discussed [here](#)), and [AB 2188](#) (Quirk; D-Hayward), prohibiting employer "discrimination" against off-the-job use of cannabis, other "job killer" bills still await the Governor's approval or veto, including:

Data Reporting and Publication

- **[SB 1162](#) Publication of Pay Data (Limón; D-Goleta)** expands upon the legislation enacted two years ago requiring employers with 100 or more employees to report specific pay data annually. This bill imposes civil penalties on employers that fail to report required pay data. SB 1162 also would require covered employers to provide pay scale information to job applicants. The initial bill was amended to eliminate the requirement to publish individual pay data reports online. While CalChambers still opposes the bill, it removed the "job killer" tag after this amendment.

Labor Relations

- **[AB 2183](#) Agricultural Labor Relations (Stone; D-Scotts Valley)** changes union election procedures for agricultural employees by essentially eliminating a secret ballot election and replacing it with the submission of representation cards signed by over 50% of the employees. AB 2183 also limits employers' ability to challenge the submitted ballot cards, forcing employers to post a bond, and includes a presumption of retaliation if an employer disciplines, suspends, demotes, lays off, terminates, or otherwise takes adverse action against a worker during a labor organization's representation ballot card campaign. The Chamber continues

to oppose this bill and it has maintained its “job killer” tag.

State of Emergency

- **[SB 1044](#) State of Emergency (Durazo; D-Los Angeles)** allows employees to leave work or refuse to show up if they feel “unsafe.” It prohibits employers from taking any adverse action against employees who decide to leave the premises or not arrive at work during a state of emergency or emergency condition. Initially, the bill did not define the term “unsafe.” The bill was amended to define “a reasonable belief that the workplace or worksite is unsafe” to mean a reasonable person, under the circumstances known to the employee at the time, would conclude there is a real danger of death or serious injury if that person enters or remains on the premises. The existence of any health and safety regulations specific to the emergency condition and an employer’s compliance or noncompliance with those regulations will be a relevant factor if this information is known to the employee at the time of the emergency condition. Notably, the term “emergency” does not include a health pandemic. After the amendments, the Chamber removed its “job killer” designation from the bill and has taken a neutral stance.

Other significant bills passed by the Legislature this session and on the Governor’s desk include several related to job protected leaves:

- **[AB 152](#) COVID-19 Relief: Supplemental Paid Sick Leave (Committee on Budget)** would extend the current iteration of the Supplemental Paid Sick Leave (“SPSL”) requirement for COVID-19-related leave from September 30, 2022 through the end of the year. Importantly, it will not entitle employees to a new bank of SPSL. SB 152 also establishes a new grant program for specified small business to provide up to \$50,000 in grants to cover some of the costs of SPSL provided in 2022.
- **[AB 1949](#) Bereavement Leave (Low; D-Palo Alto)** would make it unlawful to refuse to grant eligible employees up to 5 days of bereavement leave upon the death of a family member (as defined under the California Family Rights Act, including spouse, child, parent, sibling, grandparent, grandchild, domestic partner, or parent-in-law). The bill will require the leave to be completed within 3 months of the date of death. In the absence of existing policy, the leave may be unpaid, but an employee can use other available paid time such as vacation, personal, or sick leave. The leave will only be available to employees who have worked for the employer for at least 30 days prior to the commencement of the leave.
- **[AB 1041](#) Family Leave for “Designated Persons” (Wicks; D-Oakland)** would expand CFRA to permit an employee to take job-protected leave to care for a

“designated person.” The bill defines “designated person” as any individual related by blood or whose relationship with the employee is the “equivalent of a family relationship.” The bill provides that the employee may designate a “designated person” in advance and that an employer may limit an employee to one designated person per 12-month period.

Governor Newsom has until Friday, September 30 to sign or veto the bills passed by the Legislature. We will continue to track the final outcome of these bills.

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