

**Senate Committee on
Labor and Industrial Relations**

Senator Ted Lieu, Chair



2011-2012 Legislative Summaries

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Apprenticeship & Job Training

SB 56 – Corbett

Apprenticeship oversight.

Chapter 696, Statutes of 2011

This bill changes the auditing and reporting requirements for apprenticeship programs to, among other things, require a written plan when establishing a new apprenticeship program or expanding an existing apprenticeship program and also require that the Division of Apprenticeship Standards' audits focuses on deficient apprenticeship programs.

SB 362 – Berryhill

Employment: apprenticeships.

Failed Passage in the Senate Labor Committee

This bill would have removed the “needs-based” conditions for the creation of an apprenticeship program, and increased the amount of penalties a contractor or subcontractor is required to pay if he or she fails to employ the legally-required number of apprentices.

SB 725 – Berryhill

Prevailing wages.

Failed Passage in the Senate Labor Committee

This bill would have eliminated the “modal rate” system for determining prevailing wage rates, limit the factors that may be included as a per diem wage, provide a new method for determining vacation dates, and establishes a new method for determining prevailing wages.

Meal and Rest Periods

SB 316 – Emmerson

Meal periods: exemption: transportation industry.

Senate Labor Committee Hearing Cancelled at Request of Author

This bill would have exempted employees in the transportation industry from meal period laws if the employees are covered by a collective bargaining agreement.

SB 319 – Wyland

Meal and rest periods: exceptions.

Senate Labor Committee Hearing Cancelled at Request of Author

This bill would have exempted employees in the transportation industry from meal period laws if the employees worked inside an armored vehicle.

SB 389 – Dutton

Employment: meal periods.

Testimony Heard in Senate Labor Committee; No Vote Taken

This bill would have excluded Unfair Competition Laws and other wage penalties from meal period enforcement actions, as well as limited the application of the Private Attorneys General Act (PAGA).

SB 1114 – Dutton

Employment: meal periods.

Failed Passage in the Senate Labor Committee

This bill would have required the payment of overtime compensation for work in excess of 10 hours rather than the current 8 hour requirement.

SB 1362 – La Malfa

Meal periods.

Senate Labor Committee Hearing Cancelled at Request of Author

This bill would have exempted certain commercial drivers from meal period provisions, as well as prevented meal period claims for employees who fell within those designations.

* * *

Labor Standards Enforcement

AB 22 – Mendoza

Employment: credit reports

Chapter 724, Statutes of 2011

This bill would prohibit an employer or prospective employer, with the exception of certain financial institutions, from obtaining a consumer credit report, as defined, for employment purposes unless the position of the person for whom the report is sought is (1) a position in the state Department of Justice, (2) a managerial position, as defined, (3) that of a sworn peace officer or other law enforcement position, (4) a position for which the information contained in the report is required by law to be disclosed or obtained, (5) a position that involves regular access to specified personal information for any purpose other than the routine solicitation and processing of credit card applications in a retail establishment, (6) a position in which the person is or would be a named signatory on the employer's bank or credit card account, or authorized to transfer money or enter into financial contracts on the employer's behalf, (7) a position that involves access to confidential or proprietary information, as specified, or (8) a position that involves regular access to \$10,000 or more of cash, as specified.

AB 51 – Yamada

Payroll cards.

Hearing in Senate Banking and Finance Committee Cancelled at Request of Author

This bill would have explicitly legalized payroll cards for the purposes of wage payment to workers, regulated the fees the payroll card vendor may charge workers, and also required employee consent for an employer to utilize payroll cards for wages.

AB 101 – Perez

Child care: family child care providers: bargaining representative.

Vetoed

This bill would have exempted family child care providers from antitrust laws and allowed them to organize to negotiate over wages, benefits, and other occupational matters.

AB 240 – Bonilla

Compensation recovery actions: liquidated damages.

Chapter 272, Statutes of 2011

This bill ensures that employees seeking to recover unpaid minimum wages be entitled to receive liquidated damages whether they file a complaint with the Labor Commissioner or by filing a civil action.

AB 243 – Alejo

Labor contractors

Chapter 671, Statutes of 2011

Existing law provides that every employer must furnish each of his or her employees with an accurate itemized written statement at the time of each payment of wages that shows, among other things, wages earned and hours worked. This bill now requires an employer who is a farm labor contractor (FLC) to disclose on the itemized payroll statement furnished to employees the name and address of the legal entity that secured the employer's services. This bill also specifies that the listing by an employer of the name and address of the legal entity that secured the services of the employer on the itemized payroll statement shall not create any liability on the part of that legal entity.

AB 267 – Swanson

Employment contracts

Vetoed

Existing law prohibits certain employment contract provisions as being against public policy. Existing law does not, however, explicitly prohibit employers from conditioning employment (or the continuance of employment) on the employee entering into an employment contract that requires the employee to agree to a non-California forum and/or non-California law to resolve any employment dispute that arises in the course of employment. This bill would have prohibited an employer from requiring an employee or job applicant, as a condition of employment, to waive the application of California law to any dispute relating to employment; or resolve outside of California any dispute regarding their employment. However, it specified that nothing in the bill would prevent an employee from voluntarily agreeing to a choice of law or forum selection as long as it is not a condition of employment and that it is subject to independent consideration.

AB 350 – Solorio

Displaced Janitor Opportunity Act

Failed passage on Senate Floor

Existing law establishes the Displaced Janitor Opportunity Act which requires contractors and subcontractors that are awarded contracts or subcontracts by an awarding authority to provide janitorial or building maintenance services within the State of California, to follow specified procedures when a service contract is being terminated or will be terminated. This bill would have expanded the provisions of existing law which requires janitorial or building maintenance service contractors to retain employees for 60 days following the awarding of a contract.

Specifically, the bill would have expanded the employee retention and related provisions of existing law applicable to janitorial and building maintenance service contracts to contracts for “property services,” which would have included licensed security, landscape, window cleaning, or food cafeteria and dietary services. The bill would have also expanded the employee retention provisions from 60 to 90 days.

AB 436 – Solorio

Public works: labor compliance

Chapter 378, Statutes of 2011

This bill made changes to existing law with regards to the mechanism that funded prevailing wage and labor compliance enforcement activities through the Department of Industrial

Relations (DIR). Specifically, the bill provided that the DIR shall monitor and enforce compliance with applicable prevailing wage requirements for any public works project paid for in whole or part out of public funds that are derived from bonds issued by the state, and shall charge each awarding body (to be calculated at the percentage currently required in law) for the reasonable and directly-related costs of monitoring and enforcing compliance with the prevailing wage requirements on each such project. The bill specified that the enforcement fee requirements do not apply to state bond funded projects and specified design-build projects if the awarding body has entered into a collective bargaining agreement that binds all of the contractors performing work on the contract and that includes a mechanism for resolving disputes about the payment of wages. Additionally, the bill specified that in lieu of reimbursing DIR for this enforcement, the awarding body of state bond funded projects and specified design-build projects may elect to continue operating an existing previously approved Labor Compliance Program (LCP) to monitor and enforce prevailing wage requirements on the project as long as it is an “in-house” LCP (not contracted through a 3rd party); or they may enter into a collective bargaining agreement that binds all of the contractors performing work on the contract and that includes a mechanism for resolving disputes about the payment of wages.

AB 469 – Swanson

Employees: wages.

Chapter 655, Statutes of 2011

This bill increases the statute of limitations and bonding requirements for the failure to pay the minimum wage and overtime wages, as well as requires the provision of a notice at the time of hiring that lists the relevant details of a worker’s employment.

AB 508 – Swanson

Displaced public transit, solid waste handling, and recycling services employees.

Senate Appropriations Hearing Cancelled at Request of Author

This bill would have extended a bid preference to contractors and subcontractors who pledge to not terminate any existing employees for up to 90 days when bidding for solid waste handling and recycling services.

AB 514 – Roger Hernandez

Public works: prevailing wage: hauling refuse

Chapter 676, Statutes of 2011

Existing law requires that not less than the general prevailing wage rate be paid to all workers employed on a "public works" project costing over \$1,000 dollars and imposes misdemeanor penalties for a violation of this requirement. Existing law also defines "public works," as the hauling of refuse from a public works site to an outside disposal location, with respect to contracts involving any state agency, including the California State University and the University of California, or any political subdivision of the state. This bill added clarity to the definition of "hauling of refuse" for purposes of prevailing wage law. Specifically, this bill provided that "hauling of refuse" includes the hauling of materials other than bona fide commodities sold at fair market value from a public works site. The bill specified that a "bona fide commodity" is a commodity for which there exists a publicly-traded commodity market, such as copper, steel or aluminum.

AB 551 – Campo

Compensation recovery actions: liquidated damages.

Chapter 677, Statutes of 2011

This bill increase penalties for failing to pay prevailing wages on public works projects and failing to provide payroll records in a timely manner, as well as create a process for debarment for failing to follow the laws governing public works contracts.

AB 587 – Gordon

Public works: volunteers.

Chapter 219, Statutes of 2011

This bill extends the sunset date, from January 1, 2012 to January 1, 2017, on an exemption that allows volunteers to perform certain work on public work projects and not be paid the prevailing wage.

AB 592 – Lara

Employment: leave: interference.

Chapter 678, Statutes of 2011

This bill clarifies existing law that it is unlawful to interfere with the ability with, or restrain the exercise or attempted exercise of, leave under CFRA or due to disability by pregnancy, childbirth, or related medical conditions.

AB 766 – Monning

Public works: payroll records

Chapter 481, Statutes of 2011

This bill gives specified state agencies access to non-redacted copies of certified payroll records on public works projects in order to target the underground economy. Specifically, this bill would require that payroll records provided to an agency of the Joint Enforcement Strike Force on the Underground Economy; a law enforcement agency investigating a violation of law by the awarding body; the Division of Apprenticeship Standard; and the Division of Labor Standards Enforcement not be marked or obliterated to prevent disclosure of an individual's name, address, and social security number. The bill also provides that an employer is not liable for damages in a civil action for any reasonable act or omission taken in good faith in compliance with these requirements.

AB 1236 – Fong

Employment: hiring practices: electronic employment verification

Chapter 691, Statutes of 2011

This bill created the Employment Acceleration Act of 2011 to enact provisions of law related to the use by employers of specified federal electronic employment verification systems.

Specifically, this bill, except as required by federal law or as a condition of receiving federal funds, prohibits the state, a city, county, city and county, or special district from requiring an employer to use an electronic employment verification system, as defined, including under the following circumstances:

- a. As a condition of receiving a government contract;
- b. As a condition of applying for or maintaining a business license; and,
- c. As a penalty for violating licensing or other similar laws.

AB 1313 – Allen

Overtime wages: agricultural workers.

Refused Passage on the Assembly Floor

This bill would have required that agricultural employees are eligible for overtime after the 8th hour in a workday and ensure the provision of meal periods.

AB 1346 – Atkins

Division of Apprenticeship Standards: certification of electricians.

Chapter 693, Statutes of 2011

This bill requires individuals who wish to be certified as an electrician to submit an application that includes an employment history report from the Social Security Administration.

AB 1364 – Campos

Employment: licensed talent agencies: representation.

Senate Labor Committee Hearing Cancelled at Request of Author

This bill would have expanded and update the terminology used on the list of protected classes that a talent agent cannot refuse to represent to include ancestry, national origin, disability, marital status, or sexual orientation.

AB 1396 – Assembly Committee on Labor and Employment

Employment contract requirements.

Chapter 556, Statutes of 2011

This bill requires that employees who are paid by commission are provided with a written contract on the terms and conditions of employment.

AB 1398 – Chesbro

Employment of minors: agricultural packing plants.

Chapter 489, Statutes of 2011

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.

AB 1401 – Assembly Committee on Arts, Entertainment, Sports, Tourism and Internet Media

Employment: minors.

Chapter 577, Statutes of 2011

This bill creates an expedited permit system and enforcement fund for Entertainment Work Permits for minors.

AB 1450 – Allen

Employment: discrimination: status as unemployed

Vetoed

This bill would have banned employment practices that somehow excluded from the applicant pool for a job any individual based on his/her employment status. Specifically, this bill would have prohibit an employer, unless based upon a bona fide occupational qualification, from 1) excluding an applicant from the applicant pool at any stage of the hiring process (or refuse to offer employment) because of the individual's employment status; 2) publishing an advertisement or announcement for any job that includes a provision indicating that an individual's current employment is a requirement of the job; 3) directing an employment agency to take an individual's employment status into account in screening or referring applicants for employment. The bill would have also banned the publishing of an advertisement or announcement for any job that includes any provision indicating that an individual's current employment is a requirement for a job or that the employer will not consider an applicant for employment based on that individual's employment status. Violations of these provisions would have been subject to a civil penalty no to exceed \$1000 for the first violation, \$5,000 for the second violation, and \$10,000 for each subsequent violation, enforceable by the Labor Commissioner.

AB 1598 – Buchanan

Public contracts: public works: installation

Chapter 810, Statutes of 2012

Existing law defines "public works" as "construction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part out of public funds." However, concerns were raised regarding work that may or may not be included under the undefined term of "installation." This bill addressed the lack of clarity regarding what may or may not be included under "installation" for public works purposes. The bill included in code, the assembly and disassembly of freestanding and affixed modular office systems as part of the definition of installation, therefore, making this work subject to the payment of prevailing wage.

AB 1660 – Campos

Representation of minors: permits

Chapter 634, Statutes of 2012

This bill amended the current statute requirements for talent representatives, which among other items requires talent agencies to obtain a license to represent artists who are minors from the Labor Commissioner, involving the submission of business and financial history as well as fingerprints and affidavits from personal references. As passed, this bill requires any persons representing artists who are minors, under 18 years of age, to obtain a Child Performer Services Permit from the Labor Commissioner. The bill was amended to include a one-time loan of \$250,000 from the Labor Enforcement and Compliance fund for start-up costs as well as removes the \$50 cap on the permit fee to ensure the Labor Commission recovers its costs.

AB 1744 – Lowenthal

Employee compensation: itemized statements.

Chapter 844, Statutes of 2012

This bill require temporary services employers to report the name and address of the legal entities that have requested the temporary workers, as well as report the hours worked for each entity on either a payroll statement or wage theft prevention notice.

AB 1844 – Campos

Employer use of social media

Chapter 618, Statutes of 2012

This bill would establish prohibitions on the ability of an employer to require the disclosure of information on personal social media accounts. Specifically, the bill prohibits an employer from requiring or requesting an employee or applicant for employment to disclose a user name or password for the purpose of accessing personal social media, to access personal social media in the presence of the employer, or to divulge any personal social media information. This bill also prohibits an employer from discharging, disciplining, threatening to discharge or discipline, or otherwise retaliating against an employee or applicant for not complying with a request or demand by the employer that violates these provisions. A separate bill, SB 1349 (Yee) [Chapter

619, Statutes of 2012], addressed similar concerns regarding access to social media information by a third party but focused specifically on privacy policies for postsecondary education students.

AB 1855 – Torres

Employment: contractors: sufficient funds

Chapter 813, Statutes of 2012

This bill extended existing provisions of current law related to liability for financially-insufficient contracts to the warehouse industry (in addition to industries already covered under existing law). Specifically, this bill defined "warehouse" to mean a facility whose primary operation is the storage or distribution of general merchandise, refrigerated goods, or other products. The bill also provided that, upon request of the Labor Commissioner, any person or entity that enters into a contract or agreement for labor or services shall provide a copy of the relevant provisions of the contract or other documentation to the Labor Commissioner, as specified.

AB 2103 – Ammiano

Employment: wage and hours: overtime

Chapter 820, Statues of 2012

This bill addressed an issue raised regarding “regular rate of pay” for nonexempt salaried employees and how they are to be properly compensated for overtime hours worked. Under existing law, for the purpose of computing the overtime rate of compensation required to be paid to a nonexempt full-time salaried employee, the employee’s regular hourly rate shall be 1/40th of the employee’s weekly salary. [Labor Code Section 515(d)] This bill provides further clarity as to what hours and rate of pay a salaried employee is being compensated for when receiving his/her payment. Specifically, this bill provided that payment of a fixed salary to a nonexempt employee is deemed to provide compensation only for the employee’s regular, non-overtime hours, notwithstanding any private agreement to the contrary. Thereby requiring employers to pay their salaried employees for any overtime hours worked separately.

AB 2346 – Butler

Agricultural employee safety: heat-related illness.

Vetoed

This bill would have codified and expanded heat illness regulation for the agricultural industry, as well as create an additional private right of action to assist in enforcement.

AB 2674 – Swanson

Employment records: right to inspect

Chapter 842, Statutes of 2012

Under current law, employers are required to maintain comprehensive payroll records and make them available for inspection to employees upon request. Employers are required to comply with a written or oral request from a current or former employee to inspect or copy payroll records within 21 days. Failure to comply with this requirement entitles the current or former employee or the Labor Commissioner to recover a penalty of \$750. With regard to an employee's right to inspect his/her personnel records, however, the law is not as explicit about access. This bill now ensures that current and former employees (and his or her representative) have a right to inspect and copy their personnel files. The changes enacted with this bill conforms the access provisions for personnel records to similar protections already in existing law dealing with payroll records.

AB 2675 – Swanson

Employment contract requirements

Chapter 826, Statutes of 2012

AB 1396 (Assembly Committee on Labor and Employment), from 2011, amended Labor Code §2751 to require commission pay plans to be in writing and specifying the method by which the commissions are to be computed and paid. AB 1396 also required that a signed copy of the agreement be given to the employee and that the employer receive a signed receipt from the employee. This bill simply specifies that short-term bonuses and temporary incentives (which

increase but do not decrease payments) are not included under the definition of “commission,” therefore not requiring the employer to provide a new written contract every time the employer provides a short-term bonus or incentive payment to their employees. Specifically, the bill clarifies that “commission,” does not include short-term productivity bonuses or temporary incentive payments.

AB 2677 – Swanson

Public works: wages: employer payment contributions

Chapter 827, Statutes of 2012

This bill amends current law pertaining to the collection of benefits provided by an employer to employees, which are exempt from taxation as long as certain conditions are met. Known as employment payment contributions, examples include health insurance, education reimbursement, as well as childcare and assistance reimbursement. As passed, the bill provides that as long as specified conditions are met, an increased employer payment contribution resulting in a lower hourly straight time or overtime wage cannot be considered a violation of the applicable prevailing wage determination. The bill also provides that an increased employer payment contribution that results in a lower taxable wage is not a violation of the same determination if specified conditions are met.

SB 104 – Steinberg

Labor representatives: elections.

Vetoed

This bill would have established an alternative election procedure, the majority sign-up election, by which agricultural employees could decide whether to select a particular labor organization to represent them for collective bargaining purposes.

SB 126 – Steinberg

Agricultural labor relations.

Chapter 697, Statutes of 2011

This bill reforms the Agricultural Labor Relations Act to provide explicit authority to the ALRB for bargaining orders, to provide explicit timelines for election challenges and to strengthen mandatory mediation requirements.

SB 136 – Yee

Public contracts: prevailing wages

Chapter 698, Statutes of 2011

Existing law requires that not less than the general prevailing wage rate of per diem wages, as determined by the director of the Department of Industrial Relations (DIR), be paid to all workers employed on a public works projects. The prevailing wage rate is the basic hourly rate paid on public works projects to a majority of workers engaged in a particular craft, classification or type of work within the locality and in the nearest labor market area. This bill provides that specified work related to renewable energy generation or energy efficiency improvements are considered "public works" for purposes of prevailing wage law. Specifically, this bill requires that prevailing wages be paid on renewable energy generating capacity or energy efficiency improvements when the work is performed on the property of the state or a political subdivision of the state, as specified.

SB 272 – DeSaulnier

Leave of absence: organ donation.

Chapter 147, Statutes of 2011

This bill clarifies the Michelle Maykin Memorial Donation Protection Act to assist employer compliance with protected employee leave for organ and tissue donation.

SB 367 – Dutton

Employment: working hours

Returned to Secretary of Senate pursuant to Joint Rule 56 - 2011

Over the past several years, the issue of an alternative workweek schedule has been the subject of discussion in both Senate and Assembly Committees. Similar or identical versions of this bill have been introduced every year since 2005. Some employers see an advantage to be gained in reduced overhead costs (through energy savings, etc.) by adopting an alternative workweek, and some may wish to accommodate their employees' wishes to reduce their commuting hours. For this purpose, this bill would have enacted the Small Business Workplace Flexibility Act of 2011 which would permit an individual nonexempt employee -- employed by an employer with 25 or fewer employees -- to request an employee-selected flexible work schedule, as specified, and would allow an employer to implement this schedule without any obligation to pay overtime compensation.

SB 378 – Dutton

Employment: alternative workweek schedules

Returned to Secretary of Senate pursuant to Joint Rule 56 - 2011

Much like the previous summary, similar versions of this bill have been introduced every year since 2005. This bill would have provided that an alternative workweek schedule, adopted pursuant to the alternative workweek provisions, may include a regularly scheduled alternative workweek that authorizes work by the affected employees for more than 10 hours a day, as long as the employees are paid at the appropriate overtime rate as required by law. Specifically, this bill would have allowed small employers (with 5 or fewer employees) to voluntarily enter into a written agreement with their employees on an alternative workweek, as specified, instead of having to conduct a secret ballot election as is currently required by law.

SB 459 – Corbett

Employment: independent contractors

Chapter 706, Statutes of 2011

Existing law and regulations set forth the conditions under which a person may be classified as an independent contractor, and thus not subject to many wage, overtime, working conditions, and certain other labor standards. This bill is the latest attempt in an ongoing effort to develop

legislation to combat the misclassification of employees as independent contractors. This bill, among other things, prohibits willful misclassification of individuals as independent contractors; authorizes the Labor and Workforce Development Agency to assess specified civil damages, and take other specified disciplinary actions, against persons or employers violating these prohibitions; requires the Agency to notify the Contractors' State License Board (CSLC) of a violator that is a licensed contractor, and requires the CSLC to initiate an action against the licensee; and authorizes an individual to file a complaint requesting the Labor Commissioner to issue a determination that a person or employer has violated these prohibitions with regard to the individual filing the complaint.

SB 727 – Berryhill

Public works: prevailing wages

Returned to Secretary of Senate pursuant to Joint Rule 62(a)

This bill would have made various changes to existing law related to the payment of prevailing wages on public works projects, including repealing various provisions of current law. Among other things, this bill would have raised the threshold on public works projects exempt from prevailing wage requirements from \$1,000 to \$100,000; provided that specified public works and prevailing wage requirements would not have applied to contracts for which the state or any political subdivision pays a cumulative amount of less than 50 percent of the total payment under the contract; exempt from prevailing wage requirements any school district construction, reconstruction or rehabilitation projects except as required by federal law; limited the application of prevailing wage law applicable to specified irrigation, utility, reclamation, improvement district, street, sewer and other improvement work, by requiring that such projects be paid for in whole or in part with public funds in order to be covered (current law does not have a public funds requirement for these types of projects); provided that the requirement to pay prevailing wages does not apply to fabrication or prefabrication work that is done at permanent offsite facilities of contractors; provided that the requirement to pay prevailing wages does not apply to a public work project of a local agency that adopts a resolution or ordinance providing that prevailing wage requirements shall apply to any public work of that local agency (except as required by a state or federal grant); and specified that workers must be employed "directly at the sight of the work" to be deemed to be employed upon a public work.

SB 883 – Correa

Employers: good faith defense.

Senate Labor Committee Hearing Cancelled at Request of Author

This bill permitted an employer to raise as an affirmative defense that, at the time of an alleged violation, the employer was acting in good faith and in compliance with or reliance upon an applicable employment statute or regulation, similar to the federal “portal-to-portal” doctrine.

SB 1114 – Dutton

Employment: overtime compensation

Failed passage in Senate Labor and Industrial Relations Committee - 2012

Over the past several years, the issue of work beyond the eight hour day has been the subject of discussion in both Senate and Assembly Committees. Similar concepts allowing for work beyond the 8 hours without the obligation to pay overtime compensation have been introduced every year since 2005. In the fall of 2011, this Committee held an information hearing entitled, “Workplace Flexibility and the 21st Century Economy: A Review of California’s Workplace Flexibility Laws and Regulations,” at which both employers and employee representatives had the opportunity to discuss their views on current law and any need for improvement. Much like previous years, this bill would have increased the work day to 10 hours without the obligation on the employer to pay overtime compensation beyond the current 8 hour requirement. This bill, however, would have established this requirement as a pilot set to expire on January 1, 2015, after which the provisions currently in law (8 hours a day/40 a week) would have resumed operation.

SB 1115 – Dutton

Flexible work schedules

Failed passage in Senate Labor and Industrial Relations Committee - 2012

Similar to the previous summary, and almost identical to last year’s SB 367 which failed in this Committee, this bill would have established a process under which individual employees could have made a request for an alternative workweek schedule, giving up overtime for work in excess of 8 hours. Specifically, this bill would have permitted an individual nonexempt

employee -- employed by an employer with 10 or fewer employees -- to request an employee-selected flexible work schedule, as specified, and would allow an employer to implement this schedule without any obligation to pay overtime compensation.

SB 1255 – Wright

Employee compensation: itemized statements

Chapter 843, Statutes of 2012

Existing law requires that employers provide a detailed wage statement to their workers at the time they are paid showing specific information such as wages earned. Currently, itemized wage statements must contain accurate information about nine critical payroll elements including hourly rates and total hours worked, among others. To promote compliance with Labor Code §226, in 1976 a provision was added to specify that workers who "suffer injury" as a result of a knowing and intentional violation of these requirements are entitled to recover damages. The interpretation of what constitutes "suffering injury," however, has been an issue of dispute in numerous court cases over the last several years. This bill provides a statutory definition clarifying that a worker is deemed to "suffer injury" if he/she is unable to readily and easily determine, from the wage statement alone, specific information such as the total gross and net wages, employers name and address or which deductions were taken.

SB 1333 – Blakeslee

Employment: labor standards: consultation unit

Held under submission in Senate Appropriations Committee

This bill would have established within the Division of Labor Standards Enforcement (division), in the Department of Industrial Relations (department), a Labor Standards Consultation Unit for the purpose of providing consulting services to employee groups and employers regarding compliance with wage and hour laws. This bill would require the division to develop procedures for offering the consultation services to employer and employee groups which shall include training efforts, educational materials, and online resources.

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Occupational Safety & Health

AB 217 – Carter

Workplace smoking prohibition: long-term health care facilities

Vetoed

Current law generally prohibits smoking in places of employment; however, the law contains a number of exemptions. In an effort to eliminate secondhand tobacco smoke exposure to protect non-smoking workers and patients, this bill would have restricted smoking in long-term health care facilities by only allowing smoking in a designated patient smoking area that is outdoors and in an area that reasonably prevents smoke from entering the facility or patient rooms.

SB 432 – De Leon

Employment: apprenticeships.

Hearing in Assembly Appropriations Committee Cancelled at Request of Author

This bill would have required the Occupational Safety and Health Standards Board (OSHSB) to develop an occupational safety and health standard for lodging housekeepers, including the requirement of fitted sheets and long handled tools.

SB 575 – DeSaulnier

Smoking in the workplace

Held in Assembly Governmental Organizations Committee

Existing law prohibits the smoking of tobacco products in an enclosed space at a place of employment, unless otherwise exempted. Violation of the prohibition results in fines of \$100 for the first violations, \$200 for a second violation within one year, and \$500 for a third and subsequent violation within one year. This bill would expand the prohibition on smoking in the workplace by requiring that an owner-operated business, in addition to employers with employees, prohibit the smoking of tobacco products in an enclosed space at a place of employment or owner-operated

AB 889 – Ammiano

Domestic work employees

Vetoed

This bill would have enacted the Domestic Work Employee Equality, Fairness and Dignity Act (The Act) to regulate the wages, hours, and working conditions of domestic work employees, as defined. As originally introduced in 2011, the bill would have done the following:

1) Provide the following definitions, among others:

a. "Domestic work" means services related to the care of persons in private households or maintenance of private households or their premises, including childcare providers, caregivers of sick, convalescing, or elderly persons, house cleaners, housekeepers, maids and other household occupations.

b. "Domestic work employee" means an individual who performs domestic work (including live-in domestic work employees and personal attendants). However, the term does not include (thereby exempting from the requirements of the bill):

In-Home Supportive Services program employees;

- Specified family members;
 - A babysitter under 18 years of age;
 - A person employed by a licensed health facility;
- A person employed by an organization vendored or contracted through a regional center or the State Department of Development Services, as specified, to provide services and support for persons with development disabilities.
- A person who provides child care, as specified, if the parent or guardian of the child to whom child care is provided receives child care and development services pursuant to any program authorized under the Child Care and Development Services Act or the California Work Opportunity and Responsibility to Kids Act.

c. "Personal attendant" means a person who performs domestic work related to the supervision, feeding, or dressing of a child or other person who, by reason of advanced age, physical disability, or mental deficiency, needs supervision. Personal attendant includes babysitters. The status of "personal attendant" applies if no significant amount of work other than the foregoing is required.

d. "Domestic work employer" means a person who (including through the services of a third-party employer) employs or exercises control over the wages, hours or working conditions of a domestic work employee.

2) Establish specific employment rights for domestic work employees that includes:

a. Right to overtime compensation, as specified.

b. Right to meal and rest periods, as specified.

c. A domestic work employee who is required to be on duty for 24 consecutive hours or more shall have a minimum of eight consecutive hours of uninterrupted sleep except in an emergency.

- d. A live-in domestic work employee shall not be required to work more than five days in any one workweek without a day off. Work in excess of this schedule shall be compensated with the appropriate overtime.
 - e. A live-in domestic work employee who is not required to be on duty for 24 consecutive hours shall have at least 12 consecutive hours free of duty, of which a minimum of eight are for uninterrupted sleep.
 - f. Live-in domestic work employees and those who work for more than 24 consecutive hours shall be provided sleeping accommodations that are adequate, decent and sanitary.
 - g. A domestic work employer shall permit a domestic work employee who works five hours or more to choose the food he/she eats and to prepare his/her own meals. A domestic work employer is required to permit a domestic work employee to use the job site's kitchen facilities and appliances without charge or deduction from pay.
 - h. Right to accrue paid vacation benefits at a rate of not less than one hour per every 30 hours worked, to be used as specified, beginning at the commencement of employment or the operative date of these provisions, whichever occurs first.
- 3) Provide that the Division of Labor Standards Enforcement shall enforce the requirements of The Act and specifies certain penalties and remedial provisions, including a private right of action for enforcement, for the violation of the aforementioned rights.
 - 4) Require employers of domestic workers to provide their employees with semimonthly pay statements of their wages, as specified.
 - 5) Eliminate the current provision in law that exempts (from the requirement to carry workers' compensation) employers of domestic workers who are employed less than 52 hours

and earned less than \$100 in the previous 90 days, thereby, requiring workers' compensation coverage for these employees.

- 6) Require that domestic worker employers give every new employee written notice stating the name of the current compensation insurance carrier of the employer, or when such is the fact, that the employer is self-insured, and who is responsible for claims adjustments.
- 7) Extend to domestic workers a provision in workers' compensation law that [in an action against the employer] establishes a presumption that the injury to the employee was a direct result and grew out of the negligence of the employer, and the burden of proof is upon the employer, to rebut the presumption of negligence.
- 8) Make several legislative findings and declarations regarding domestic workers.

The bill was amended in 2012 to significantly narrow the scope of the bill. As enrolled to the Governor, the bill would have required the Department of Industrial Relations (DIR) to adopt regulations governing the working conditions of domestic work employees, as defined. The regulations would have required addressing all of the following issues: (1) overtime compensation, (2) meal and rest periods, and (3) uninterrupted sleep periods and compensation for interruptions. Additionally, in adopting these regulations, the DIR would have been required to: (1) study the economic impact of the regulations, as specified, and (2) review and consider federal policies regarding domestic work employees.

AB 1136 – Swanson

Employment safety: health facilities

Chapter 554, Statutes of 2011

This bill established the Hospital Patient and Health Care Worker Injury Protection Act (Act) to require hospitals to adopt a safe patient handling policy. Existing law requires all employers to have an industry-specific Illness and Injury Prevention Program (IIPP) that contains certain

mandatory provisions; however, this bill established additional requirements regarding safe patient lifting techniques, necessary training and equipment.

SB 1318 – Wolk

Health facilities: influenza vaccinations.

Vetoed

This bill would have mandated a 90% or higher influenza vaccination rate for health facilities and clinics, and requires all clinics or health facilities that fail to reach this vaccination rate to implement a mandatory vaccination process.

SB 1230 – Wright

Occupational Safety and Health Standards Board: emissions control.

Senate Labor Committee Hearing Cancelled at Request of Author

This bill would have delayed the application of CARB diesel emission and particulate matter control regulations until the Occupational Safety and Health Standards Board (OSHSB) issues additional safety regulations on the retrofitting of the diesel emission and particulate matter control technology.

* * *

Workforce Development

AB 554 – Atkins

Employment: workforce services

Chapter 499, Statutes of 2011

This bill directs the state and local Workforce investment boards to ensure that programs and services funded by the Workforce Investment Act (WIA) are conducted in coordination with apprenticeship programs. As passed, the bill requires the California Workforce Investment Board (CWIB) and each local board to ensure that programs and services funded by WIA and directed to apprenticeable occupations are conducted to the maximum extent feasible, in coordination with apprenticeship programs approved by the Division of Apprenticeship Standards. As passed, the bill also requires the CWIB and each local board to develop a policy of fostering collaboration between community colleges and approved apprenticeship programs in their respective geographic areas.

AB 1115 – Lara

Workforce development: training services

Senate Appropriations Hearing Canceled at Request of Author

This bill would have established consistent standards and other requirements for the statewide eligible training provider list (ETPL) for purposes of job training under the federal Workforce Investment Act. Specifically, the bill would have required the state to compile a single list of the eligible training providers from all local areas in the state and disseminate the list to the one-stops statewide, make the list widely available to participants in authorized employment and training activities, and provide that individuals eligible for training services have the opportunity to select any eligible provider on the state eligible training provider list. The bill would have also required the California Workforce Investment Board to establish a procedure, with input from local workforce investment boards and the public, for local WIBs to determine the eligibility of a provider of training services.

AB 1310 – Furutani

Career technical education and workforce development

Vetoed

This bill would have established a requirement for specified state agencies to work together on the development of a strategic plan for connecting the delivery of education and workforce development in the state. Specifically, the bill would have required the Secretary of Labor and Workforce Development Agency, in conjunction with the California Workforce Investment Board, the Office of the Chancellor of the California Community Colleges, the State Department of Education, and the California Postsecondary Education Commission develop the strategic plan that addresses how the state determines appropriate measures for evaluating and collecting data on future workforce needs.

SB 698 – Lieu

Workforce development: high-performance boards

Chapter 497, Statutes of 2011

This bill amends the Workforce Investment Act (WIA) to require the Governor to establish standards for certification of high-performance Local Workforce Investment Boards through the California Workforce Investment Board (CWIB). As passed, the bill establishes criteria for high-performance certification including specified performance goals, demonstration of a local planning process involving major employers and industry groups, investment in skill development initiatives and training programs, as well as creating a business service plan that integrates local business involvement with workforce initiatives. The bill's passage also establishes the High-Performance Workforce Investment Board Fund and requires the CWIB, in consultation with the Governor, to allocate a portion of the federal WIAs 15% discretionary fund to this fund.

SB 776 – DeSaulnier

State and local workforce investment boards: funding

Failed passage in Assembly Appropriations Committee

This bill would have required Local Workforce Investment Boards to spend a certain percent of available federal WIA funds for adults and dislocated workers on direct client services, workforce training programs, and supportive services in a manner consistent with federal law, as

prescribed. Specifically, this bill would have required that at least 50% of funds provided to Local WIBs for adults and dislocated workers under WIA be spent on workforce training programs and supportive services for persons enrolled in training, as specified. Additionally, the bill would have required that at least 75% of funds provided to Local WIBs for adults and dislocated workers be spent on direct client services, as defined. Direct client services includes core, intensive and training services.

Although SB 776 failed passage in the Assembly Appropriations Committee, the language and similar provisions of the bill were plugged in to SB 734 (DeSaulnier) which was signed into law by the Governor (Chapter 498, Statutes of 2011). SB 734 requires that at least 25 percent of federal Workforce Investment Act funds provided to local WIBs be spent on workforce training programs. In 2016, this number is increased to 30 percent.

SB 1401 – Lieu

Unemployment insurance: education and workforce investment

Held under submission in Assembly Appropriations Committee

Existing law provides that the California Workforce Investment Board is responsible for assisting the Governor in the development, oversight, and continuous improvement of California's workforce investment system. Existing law further provides that the board must assist the Governor in targeting resources to specified high-wage industry sectors and providing guidance to ensure that services reflect the needs of those sectors. This bill would have required the board to assist the Governor in targeting resources to specified industry clusters that provide economic security and leverage state and federal funds to ensure that resources are invested in activities that meet the needs of specified industry sectors. This bill would have required, as part of the strategic workforce plan, the creation of a California Industry Sector Initiative that will accomplish specified tasks, including aligning and leveraging federal, state, and local Workforce Investment Act funding streams, identifying specified industry sectors and clusters, providing skills-gap analysis, and establishing specified eligibility criteria for the Workforce Investment Act eligible training provider list.

Unemployment Insurance & State Disability Insurance

AB 55 – Gatto

Unemployment compensation: employer: motion picture industry.

Chapter 160, Statutes of 2011

This bill makes permanent existing law creating an unusual employer-unit structure for the motion picture and theatrical industries that ensures prompt remittance of unemployment insurance taxes.

AB 226 – Solorio

Unemployment insurance: reporting requirements: status of funds

Placed on Senate Inactive File

Existing law requires the Employment Development Department to submit to the Legislature in May and October of each year a report on the status of the Unemployment Fund and the Unemployment Compensation Disability Fund. Each report shall include both actual and forecasted information on the fund balances, receipts, disbursements, claim data, tax rates, and employment levels. This Bill would require that the Employment Development Department, whenever the Unemployment Fund indicates a negative balance, include in its status report the estimated impact on employers from changes in federal tax credits and the estimated amount the state is expected to pay in interest charges on any outstanding loan to the federal government.

AB 274 – Garrick

Unemployment insurance benefits: claims: right to respond

Vetoed

Current law requires EDD to provide notice of the filing of an unemployment claim to the claimant's last employing unit, and requires the employer to submit, within 10 days after the mailing of the notice, any facts that may affect the claimant's eligibility for benefits. Current law also authorizes the director of EDD to extend for "good cause" the period during which the employer may submit these facts. On its internet website, the EDD states that to establish good cause, the employer must present a substantial reason for the delay and provides examples and criteria for the extension to be granted.

This bill would clarify the circumstances that constitute good cause to request and obtain a time extension by requiring that the EDD provide employers with a direct internet website link to the page that describes this criterion.

AB 975 – Ma

Professional employer organizations.

Held Under Submission in Senate Appropriations

This bill would have allowed for a vehicle for further discussions on how to recognize and regulate Professional Employer Organizations for the purposes of the remittance of payroll taxes, workers' compensation coverage requirements, and compliance with California Labor Law, including wage and hour issues and safety and health requirements at the worksite.

SB 1284 – Lieu

Unemployment insurance: disclosure of information

Senate Labor Hearing Canceled at Request of Author

Existing law provides that information obtained in the administration of the Unemployment Insurance Code is confidential and is for the exclusive use and information of the director in the discharge of his or her duties. Existing law authorizes an employee to receive his or her wage information upon written request by the employee. Existing law provides that a person who knowingly accesses, uses, or discloses confidential information without authorization is guilty of a misdemeanor. This bill would have allowed the Director of the Employment Development

Department to electronically transmit wage information of an employee to a creditor, upon the execution of a release by an employee, if specified requirements were met.

AB 1845 – Solorio

Unemployment compensation benefits: overpayment assessments: termination:
income tax withholding.

Chapter 783, Statutes of 2012

This bill conforms California's Unemployment Insurance system to federal requirements, as well as makes minor, technical changes to the law.

SB 691 – Lieu

Unemployment insurance: use of information.

Chapter 832, Statutes of 2012

This bill permits the Employment Development Department to share employment data and information with the Contractors' State License Board for the purposes of aiding any specific workers' compensation fraud investigation and the Agricultural Labor Relations Board for the enforcement of the Agricultural Labor Relations Act.

SB 1291 – Evans

Unemployment benefits: training: teacher credentialing

Chapter 278, Statutes of 2012

This bill extends unemployment insurance benefits to teachers training to receive credentials in math, science, and special education.

Workers Compensation

AB 211 – Cedillo

Workers' compensation: permanent disability benefits.

Vetoed

This bill would have restructured the supplemental job displacement benefit (SJDB) to a \$6,000 benefit tied to the injured worker becoming permanent and stationary, rather than the conclusion of temporary disability, as well as increased the number of uses for the benefit.

AB 228 – Fuentes

State Compensation Insurance Fund: out-of-state risks

Chapter 670, Statutes of 2011

This bill authorizes the State Compensation Insurance Fund (SCIF) to partner with another workers' compensation insurer to sell workers' compensation coverage for a California employer's out-of-state employees.

AB 335 – Solorio

Workers' compensation: notices

Chapter 544, Statutes of 2011

This bill requires the Administrative Director (AD) of the Division of Workers' Compensation to, in consultation with the Commission on Health and Safety and Workers' Compensation

(CHSWC), prescribe rules and regulations regarding notices that are provided to employees in the workers' compensation system. Specifically, this expands the subjects of information that benefit notices must include by adding notices on supplemental job displacement benefits, rights concerning selection of a personal treating physician, requests for comprehensive medical evaluation, and offers of regular, modified, or alternative work. In addition, the bill requires the AD to develop, and make available, informational material that describes the overall workers' compensation claims system, including the rights and obligations of employees and employers at every stage of a claim when a notice is required.

AB 375 – Solorio

Hospital employees: presumption.

Refused Passage on the Senate Floor

This bill would have created a disputable presumption of an occupational if a hospital employee contracts MRSA or a bloodborne infectious disease in an acute care hospital.

AB 378 – Solorio

Workers' compensation: pharmacy products.

Returned to the Secretary of the Senate pursuant to Joint Rule 56

This bill prohibits physicians from referring a patient for pharmacy goods if that physician has a financial interest in the entity that receives the referral and requires the creation of a fee schedule for compound drugs and physician dispensed products.

AB 584 – Fong

Workers' compensation: utilization review

Vetoed

Existing law requires every employer to establish a medical treatment utilization review (UR) process, in compliance with specified requirements, either directly or through its insurer or an

entity with which the employer or insurer contracts for these services. This bill would have modified workers' compensation requirements pertaining to licensed physicians who are authorized to conduct utilization reviews in the state. Among other things, this bill would have required that a "physician," for purposes of workers' compensation, who is conducting utilization review of proposed medical treatment for an injured worker, be licensed in California.

AB 585 – Fong

Workers' compensation: cancer presumption.

Chapter 550, Statutes of 2011

This bill extends the disputable presumption of cancer as an occupational injury to active firefighting members of a fire department that serve a United States government installation and who adhere to training standards discussed above.

AB 808 – Skinner

Workers' compensation: hospital employers: presumption.

Ordered to the Senate Inactive File

This bill would have created a disputable presumption of an occupational injury if a hospital employee contracts Methicillin-Resistant Staphylococcus aureus (MRSA) skin infection in an acute care hospital

AB 878 – Berryhill

Contractors: workers' compensation insurance.

Chapter 686, Statutes of 2011

This bill requires workers' compensation insurers to notify the Contractors State Licensing Board if a licensee is found to have misled the insurer on his or her workers' compensation coverage.

AB 947 – Solorio

Hospital employees: presumption.

Vetoed

This bill would have increase the cap on the payment of temporary disability benefits from up to 104 weeks to up to 240 weeks for injured workers who require additional medical treatment.

AB 1145 – Cedillo

Workers' compensation: permanent disability benefits.

Vetoed

This bill would have restructured the Supplemental Job Displacement Benefit (SJDB) to a \$6,000 benefit tied to the injured worker becoming permanent and stationary, rather than the conclusion of temporary disability.

AB 1155 – Alejo

Workers' compensation.

Vetoed

This bill would have barred the consideration of race, national origin, gender, sex, genetic predisposition, and certain other factors in the determination of an apportionment of the causes of an industrial disability.

AB 1168 – Pan

Workers' compensation: vocational expert fee schedule.

Chapter 555, Statutes of 2011

This bill requires the administrative director of the Division of Workers' Compensation adopt, after public hearings, a fee schedule that establishes reasonable maximum fees paid for services provided by vocational experts.

AB 1426 – Solorio

Workers' compensation: court administrator.

Chapter 559, Statutes of 2011

This bill abolishes the position of court administrator in the Division of Workers' Compensation and delegates the responsibilities for that position, as specified.

AB 1454 – Solorio

Workers' compensation: audiologists.

Vetoed

This bill would have added audiologists to the list of medical professionals that can be appointed as Qualified Medical Examiners (QMEs) in the workers' compensation system.

AB 1687 – Fong

Workers' compensation: utilization review.

Vetoed

This bill would have require the Administrative Director to require the sending of a notice to an injured worker on how to object to a utilization review decision and also permitted the Workers' Compensation Appeals Board to award attorney's fees in the event of a successful challenge of a utilization review medical decision if the injured worker has previously settled his or her claim and the settlement included future medical care.

AB 2069 – Solorio

Workers' compensation: peace officer benefits

Chapter 819, Statues of 2012

Existing provides for the payment of a scholarship to dependents of specified peace officers if the peace officer is killed in the performance of his or her duty or if the officer suffers death or permanent disability as a result of specified accidents or injuries incurred in the performance of his or her duties. Existing law also requires the employer of a peace officer who is killed in the performance of his or her duty, or who suffers death as a result of specified accidents or injuries, to continue providing health benefits to the deceased employee's spouse unless the spouse elects to receive a lump-sum survivor's benefit in lieu of monthly benefits. This bill extended these peace officer benefits to Sheriff's Special Officers of the County of Orange.

AB 2302 – Assembly Committee on Insurance

Workers' compensation: studies

Without further action

This bill would have repealed obsolete statutory requirements regarding studies on the workers' compensation system. Specifically refers to three recently completed studies on the causes of workers' compensation insurer insolvencies (completed in 2009), industrial injuries (completed in 2004), and workers' compensation reforms on insurance rates (completed in 2005).

AB 2451 – Perez

Workers' compensation: firefighters.

Vetoed

This bill would have extended the statute of limitations on filing for workers' compensation death benefits for the dependents of firefighters and peace officers from 240 weeks to 480 weeks if the deceased worker died of Cancer, Tuberculosis, MRSA skin infections, or a bloodborne infectious disease.

AB 2493 – Hernandez

Workers' compensation: administrative hearings and medical examinations and treatments: interpreters.

Vetoed

This bill would have permitted the Division of Workers' Compensation or an independent organization to publish annually a list of certified administrative hearing and medical examination interpreters separate from the State Personnel Board's list of certified interpreters.

SB 127 – Emmerson

Official medical fee schedule: physician services.

Vetoed

This bill would have required that the Administrative Director of the Division of Workers' Compensation annually update the Current Procedural Terminology (CPT) codes, descriptors, and modifiers for physician services.

SB 407 – Canella

Jail inmates: workers' compensation.

Failed Passage in the Senate Labor Committee

This bill would have limited the ability of inmates in city, county, and city and county jails to utilize the workers' compensation system in the event of an injury during their incarceration, including taking into account previous wages when calculating temporary and permanent disability indemnity benefits.

SB 457 – Calderon

Workers' compensation: liens.

Chapter 564, Statutes of 2011

This bill requires the Workers Compensation Appeals Board (WCAB) to allow a lien in excess of the Official Medical Fee Schedule (OMFS) when it is found that a self-insured employee welfare benefit plan provided benefits outside of the workers' compensation system.

SB 777 – Lieu

Workers' compensation insurance: coverage program.

Ordered to the Assembly Inactive File

This bill would have provided a vehicle for further discussion on how to promote data sharing between governmental agencies in order to combat the underground economy.

SB 826 – Leno

Workers' compensation: data reporting requirement: administrative penalties

Chapter 568, Statues of 2011

Existing law requires the administrative director (AD) of the Division of Workers' Compensation to develop a cost-efficient workers' compensation information system and

requires the AD to adopt regulations specifying the data elements to be collected by electronic data interchange. This bill requires that the AD assess an administrative penalty against a claims administrator for violations of data reporting requirements. Among other things, this bill requires the AD to promulgate regulations establishing categories of violations not exceeding \$100 for each violation or \$5,000 in any calendar year.

SB 896 – De Leon

Workers' Compensation: spinal surgeries.

Senate Labor Committee Hearing Cancelled at Request of Author

This bill would have added additional Medicare Severity Diagnostic Related Groups (MSDRGs) to the list of separately reimbursable spinal hardware, as well as increased the reimbursement for "outlier" reimbursements by 200% of the relevant MSDRG.

SB 959 – Lieu

Workers' compensation: provider reimbursement: implantable medical devices, hardware, and instrumentation.

Ordered to the Assembly Inactive File

This bill would have repealed the additional, separate reimbursement in excess of the Official Medical Fee Schedule, for implantable medical devices, hardware, and instrumentation for spinal surgeries.

SB 1105 – Lieu

Workers' compensation: liens

Chapter 712, Statutes of 2012

This bill allows a self-insured employee welfare benefit to be reimbursed through a living expense lien against a temporary disability indemnity award for benefits provided from the employee-funded employee welfare benefit plan.

SB 1177 – Leno

Restitution for crime victims.

Chapter 868, Statutes of 2012

This bill requires that, in the event of a crime by an employer against an employee, payments by a workers' compensation insurer to an injured worker or his or her dependents only be allowed as an offset against victim restitution fines if the employer secured workers' compensation coverage.

SB 1347 – Vargas

Workers' compensation: insurance.

Senate Labor Committee Hearing Cancelled at Request of Author

This bill would have required the Director of Industrial Relations to designate a nonprofit mutual benefit corporation for the purposes of providing information regarding the administration, costs, and policy impacts of legislative and market changes in the administration of workers' compensation programs and benefits to injured employees of public self-insurers.

* * *

Leave: Medical & Family

AB 325 – B. Lowenthal

Employee's right to bereavement leave

Vetoed

Existing law provides employees with the right to take time off work without discharge or discrimination for a number of reasons. However, current law does not require employers to provide protected leave specifically for bereavement, although some employers already provide bereavement leave as part of a collective bargaining agreement. This bill would have given employees in California the right to take three days of unpaid time off in the event of the death of a spouse, child, parent, sibling, grandparent, grandchild, or domestic partner. The employee would have been able to take this time off without fear of discharge, discipline, or discrimination on the part of the employer. This bill would have granted employees the right to reinstatement and to recover actual damages if the employee is discriminated against for the exercise of rights pursuant to this requirement.

AB 2039 – Swanson

Family and medical leave

Held under submission by Senate Appropriations Committee

Current law authorizes employees to take leave to care for his/her self or a parent, spouse, or child with a serious medical condition. However, employees cannot take leave to attend to an ill sibling, grandparent, grandchild, parent-in-law, adult child, or domestic partner. This bill would have amended the California Family Rights Act (CFRA) to expand the definition of family members for which the employee could take leave to care for. Specifically, this bill would have extended family and medical leave rights to employees wishing to care for an adult child, sibling, grandparent, grandchild, parent-in-law, or domestic partner.

SB 299 – Evans

Employment: pregnancy or childbirth leave

Chapter 510, Statutes of 2011

Current law provides employees with options for paid and unpaid leave through programs such as the Pregnancy Disability Leave (PDL), Family Medical Leave Act (FMLA), and California Family Rights Act (CFRA). Under existing law, both FMLA and CFRA requires employers to continue health care coverage for employees while they are on leave, however, both have strict eligibility requirements and CFRA is only available for bonding once the child is born. Although FMLA and PDL can run concurrently, thus requiring the employer to cover an employee's health coverage during leave, the problem is that both FMLA and CFRA only cover women working for an employer with 50 or more employees. For employers with 50 or fewer employees, PDL is the only leave required for employees disabled by pregnancy or pregnancy-related conditions and employers are not required to continue health insurance coverage during the disability leave.

This bill extended the right to health insurance coverage for eligible female employees on Pregnancy Disability Leave by requiring that employers of 50 or fewer employees maintain and pay for health coverage during their leave.

Retirement

SB 1234 – De Leon

Retirement savings plans.

Chapter 734, Statutes of 2012

This bill creates a state-administered retirement savings program to supplement social security income or other retirement accounts. Specifically, SB 1234 does the following:

- 1) Establishes a “California Secure Choice Retirement Savings Trust” for the purpose of promoting greater retirement savings for California private employees in a convenient, voluntary, low-cost, and portable manner;
- 2) Creates the “California Secure Choice Retirement Savings Investment Board”, which administers the Trust;
- 3) Creates a “California Secure Choice Retirement Savings Program”, which is offered by the Trust;
- 4) Requires employers that do not provide a retirement plan to participate in the Program;
- 5) Provides an opt-out process for employees that do not wish to participate; and
- 6) Provides that the Program cannot begin until a market analysis shows that there is sufficient support for such a Program.

SB 923 – De Leon

Retirement savings plans.

Chapter 737, Statutes of 2012

This bill would, contingent upon the enactment of SB 1234, expand the California Secure Choice Retirement Savings Investment Board to 9 board members, as specified, and also prohibit the board from opening the trust program for enrollment without a subsequent authorizing statute.

**Other Legislation:
withdrawn from committee, and 29.10s:**

AB 391 – Pan

Workforce development: one-stop career centers

Chapter 172, Statutes of 2012

Secondhand dealers and pawnbrokers: electronic reporting

As originally introduced, this bill would have required the Employment Development Department to provide in-person unemployment benefit assistance in a comprehensive one-stop career center in five workforce investment areas as determined by EDD. Additionally, the bill would have allowed the department to reallocate existing resources, including staff and equipment, and work with one-stop career center partners in order to accommodate customer service personnel that will provide this assistance. This bill was later amended into a bill dealing with electronic reporting requirement for secondhand dealers and pawnbrokers.

AB 2676 – Charles Calderon

Agricultural employee safety

Vetoed

As introduced, this bill would have required of the Employment Development Department to provide the Agricultural Labor Relations Board with information for use in the investigation or enforcement of the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act. The original contents of this bill were never heard in Committee and the bill was later amended into a bill related to agricultural employee safety. The amended bill, however, was within the jurisdiction of the Senate Committee on Public Safety and not this committee.

AB 2099 – Cedillo

Employment: wage and hour violations

Re-referred to Committee on Rules pursuant to Senate Rule 29.10(c)

As introduced, this bill would have increased the fine for violations of specified labor laws from not less than one hundred dollars (\$100) to not less than two hundred fifty dollars (\$250). This bill was later amended into a bill related to public employees: annuities and mutual fund custodial accounts.

SB 829 – Rubio

Public contracts: public entities: project labor agreements

Chapter 11, Statutes of 2012

As introduced and authored by Senator DeSaulnier, this bill would have made a number of changes to existing law governing the Occupational Safety and Health Appeals Board, the appellate process which it governs, and other related clarifying and conforming changes. This bill was later amended into a Senator Rubio bill dealing with public labor agreements within the Public Contract Code.

SB 912 – Lieu

Employment Development Department: training expenditure reports

Re-referred to Committee on Rules

Contractors: fire safety: State Fire Marshal

This bill would have changed the timeframe for which the Employment Development Department must report Local Workforce Investment Board training expenditures to better align with the schedule in which Local WIBs receive their funding from the federal government. Instead of annual reporting, the bill would have required reporting after the end of the two-year period of availability for federal WIA funds. This bill was later amended into a fire safety bill within the jurisdiction of the Business and Professions Code.

SB 1349 – Yee

Social media privacy: postsecondary education

Chapter 619, Statutes of 2012

It is illegal for an employer to discriminate against an employee or applicant on the basis of lawful conduct they engage in during nonworking hours away from the employment site.

Examples of protected lawful conduct include exercising free speech rights or engaging in political activities while off-duty. Although existing law affords current and potential employees with various protections against discrimination and/or retaliation in the workplace, nothing specifically prohibits the use of information obtained through social media sites. This bill now prohibit a public or private employer as well as a public or private postsecondary educational institution from requiring, or formally requesting in writing, the disclosure of user name or account passwords for a personal social media account or to otherwise provide access to any content of that account.

Gut & Amend

AB 197 – Monning

Recovery of wages: liquidated damages.

As original introduced, this bill would have doubled the liquidated damages that can be awarded to an individual when his or her employer pays less than the minimum wage. AB 197 was later amended to address the Public Employment Retirement System and bargaining impasses.

AB 1393 – Committee on Arts, Entertainment, Sports, Tourism and Internet Media

Employment: on-location filming permits.

As original introduced, this bill would have allow a local agency or public entity that issues a permit for on-location motion picture to inform the Department of Industrial Relations (DIR) and the Division of Labor Standards Enforcement (DLSE) whether a child or children will be

employed at a particular film production location. AB 1393 was later amended to address the Fresno Prison System.

SB 644 – Hancock

Public works: volunteers

As original introduced, this bill would have extend the sunset for the exemption of volunteers from public works requirements. SB 644 was later amended to address the West Contra Costa Healthcare District.

SB 923 – De Leon

Public works: volunteers

As original introduced, this bill would have required the Administrative Director of the Division of Workers' Compensation to adopt a Resource-Based Relative Value Scale (RBRVS) for the payment of physician services in the workers' compensation system. SB 923 was later amended to address retirement savings plans.
