WILSON TURNER KOSMO
LLP

2026 CALIFORNIA LEGISLATIVE SUMMARY

September 2, 2026

The 2026 Legislative Session drew to a close on August 31, 2026 with a flurry of activity following the summer recess. Not surprisingly, a number of employment bills passed both Legislative chambers and have been sent to Governor Gavin Newsom for signature or veto, including bills that would:

1. Delay implementation of last year's prohibition on "stay or pay" agreements to January 1, 2027 and add several exceptions to the law (AB 1697)
2. Expand mandatory harassment prevention training to include anti-hate speech training (AB 1803)
3. Expand bereavement leave to cover the death of a "designated person" (SB 1149)
4. Add menopause-related conditions to FEHA's definition of sex, and thus prohibit harassment, discrimination, or retaliation on the basis of such conditions (AB 1940)
5. Regulate employer use of Automated Decision Systems (SB 947)
6. Require advance notice re: terminations or reduced hiring based on "technological displacement" related to AI (SB 951)
7. Restrict the use of workplace surveillance tools in bathrooms (AB 1331)
8. Restrict the use of workplace surveillance tools to collect neural data or recognize emotional state (AB 1883)

There were also some employment bills that stalled this session, including bills that would have required staffing agencies to register with the state and expanded employers' reporting obligations to the EDD.

Looking ahead, the deadline for the Governor to sign or veto the bills is September 30, 2026. Stay tuned for our final legislative update of the year! In the meantime, below is a brief overview of our "Top Eight" potential employment law changes and a summary of the remaining notable employment bills currently pending, organized by subject matter. Unless otherwise indicated, each of these bills has passed both houses of the legislature and is awaiting Governor Newsom's signature or veto. We have also included several references to notable new state and federal regulations and guidance.

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TOP EIGHT PROPOSED NEW CALIFORNIA EMPLOYMENT LAWS

1. Delayed Implementation and Revisions to Prohibition on Stay-or-Pay Agreements (AB 1697)

Last year, AB 692 was signed into law, making it unlawful for employers to use "stay or pay" agreements by which employees are obligated to pay an amount of money if their employment terminates, with several limited exceptions. That law specified that it only applied to contracts entered into on or after January 1, 2026. (For more information, see our 2025 Legislative Summary here.) This bill would delay the effective date of AB 692 *and* exempt additional types of contracts from the ban on "stay or pay" agreements. Perhaps most significantly, the new bill would exempt certain bonuses offered to *current employees* and allow employers to require repayment of these bonuses under limited circumstances.

First, this bill would delay, for one year, until **January 1, 2027**, the effective date of AB 692. The bill specifies that it is intended to provide all employers with an additional year to structure their employment contracts free of debt traps or quit fees. Therefore, the bill would prevent the accrual of liability for any acts occurring between January 1, 2026 and January 1, 2027; and would specify that any pending claim based on a violation alleged to have occurred during 2026 shall be moot.

Second, the bill would revise one of the exceptions from AB 692. That bill allowed employers to require repayment pursuant to a contract for the receipt of a discretionary or unearned monetary payment, including a financial bonus, ***at the outset of employment***, that is not tied to specific job performance, provided that a number of conditions are met. This exception allowed employers to require repayment of signing bonuses or relocation expenses offered to *new employees*, but appeared to prohibit contracts requiring repayment of relocation expenses or retention bonuses to *existing employees*. This new bill would remove the phrase "at the outset of employment" from this exemption. Thus, this amendment would allow employers to require repayment of discretionary or unearned monetary payments, including a financial bonus, that is not tied to specific job performance, for *all* employees, provided they meet the requirements originally imposed on such agreements. Specifically:

- The terms of any repayment obligation must be set forth in a separate agreement from the primary employment contract.

- The employee must be notified that they have the right to consult an attorney regarding the agreement and provided with a reasonable time period of not less than five business days do so prior to executing the agreement.

- Any repayment obligation for early separation from must not be subject to interest accrual and must be prorated based on the remaining term of any retention period, which shall not exceed two years from the receipt of payment.

- The worker must have the option to defer receipt of the payment to the end of a fully served retention period without any repayment obligation.

- Repayment can be required only if separation from employment prior to the retention period was at the sole election of the employee, or at the election of the employer for misconduct.

Third, the bill would add several additional types of contracts that are *not* prohibited by AB 692. If enacted, this bill would allow employers to enter into:

- Contracts pursuant to a recruitment and retention program funded by a federal, state, or local government agency grant that offers recruitment or retention bonuses, if the employee repayment obligations comply with the requirements of the grant and do not exceed the service obligations required by the grant; or

- Contracts for the receipt of a discretionary or unearned monetary payment from the employer that is an inducement for the worker to be affiliated with the employer or agreeing to maintain a relationship with the employer, provided that all of the following conditions are met:

    - The contract is between a securities broker-dealer, insurance producer, or investment adviser, including their affiliates, and its agents or representatives that are any of the following:

        - Registered with the United States Securities and Exchange Commission or the Financial Industry Regulatory Authority.

        - Licensed by the State of California under Chapter 2 (commencing with Section 25210) or Chapter 3 (commencing with Section 25230) of Part 3 of Division 1 of Title 4 of the Corporations Code.

        - Licensed by the State of California under Section 1626 of the Insurance Code.

    - The terms of any repayment obligation are set forth in a separate agreement from the primary employment contract.

    - The payment from the employer to the worker is in addition to compensation that would otherwise be payable to the worker in connection with their employment.

    - The worker is notified that they have the right to consult an attorney regarding the agreement and be provided with a reasonable time period of not less than five business days to do so prior to executing the agreement.

    - If an outstanding repayment obligation continues following separation from employment and interest accrues on the obligation after separation, the applicable interest rate shall not exceed the applicable federal rate published by the Internal Revenue Service for federal income tax purposes.

- A repayment obligation arising from voluntary separation of employment related to an advanced payment made by the employer for paid time off in excess of a worker's accrued paid time off, provided that all of the following conditions are met:
    - The terms of any repayment obligation are clearly disclosed to the worker separate from the primary employment contract upon the worker's request to receive advanced payment for paid time off in excess of a worker's accrued paid time off.
    - The repayment obligation does not exceed 40 hours accrued paid time off.
- The repayment obligation is not subject to interest accrual.

Status: Passed the Assembly and the Senate and has been presented to the Governor.

2. Expansion of Mandatory Harassment-Prevention Training to Include Anti-Hate Speech Content (AB 1803)

Existing law (Govt. Code § 12950.1) requires employers with five or more employees to provide sexual harassment prevention training to all employees (two hours for supervisory employees and one hour for nonsupervisory employees) every two years. The required training must also include instruction on the prevention of abusive conduct and harassment based on gender identity, gender expression, and sexual orientation.

Beginning January 1, 2028, this bill would expand the scope of the mandatory training by requiring employers to include anti hate speech training as an additional component. The bill does not define "hate speech" but would mandate that this content be integrated into the existing statutory training program delivered to both supervisory and nonsupervisory employees.

Status: Passed the Assembly and Senate and has been presented to the Governor.

3. Expansion of Bereavement Leave to Cover Death of "Designated Person" (SB 1149)

Existing Law (Government Code section 12945.7) requires employers to allow up to five days of bereavement leave upon the death of a family member, as defined. Currently, "family member" means spouse, child, parent, sibling, grandparent, grandchild, domestic partner, or parent-in-law. This bill would amend the definition of "family member" to include a "designated person," defined as any individual related to the employee by blood or whose association with the employee is the equivalent of a family relationship. An employer would be allowed to limit an employee to one designated person per 12-month period for bereavement leave.

Status: Unanimously passed the Senate and Assembly and has been presented to the Governor.

4. Addition of Menopause-Related Conditions to FEHA's Definition of "Sex" (AB 1940)

Existing law prohibits discrimination based on protected characteristics, including "sex," which currently encompasses pregnancy, childbirth, breastfeeding, and related medical conditions under both FEHA and the Unruh Civil Rights Act. This bill would expand the definition of "sex" under both FEHA (Government Code Section 12926) and the Unruh Civil Rights Act (Civil Code Section 51) to include perimenopause, menopause, postmenopause, and related medical conditions, extending anti-discrimination protections to both employees and members of the public in business establishments experiencing menopause-related symptoms. The bill would also require the Civil Rights Department, by July 1, 2027, to update its existing sexual harassment poster and information sheet under Government Code Section 12950 to notify people of these rights.

Status: Passed the Assembly and Senate and has been presented to the Governor.

5. Regulation of Employer Use of Automated Decision Systems (SB 947)

This bill would create a comprehensive regulatory scheme governing employer use of automated decision systems (ADS) in the workplace. The bill is similar in scope to SB 7 (the "No Robo Bosses Act"), which passed the Legislature in 2025 but was vetoed by Governor Newsom. SB 947 reintroduces many of the same concepts with revised notice provisions and narrower application in response to the concerns raised in the veto. Please note that last year's amendments to the regulations under the California Consumer Privacy Act (CCPA) impose new requirements regarding the use of automated decisionmaking systems by companies covered by that law. For more information, read our summary below.

The bill sets out detailed definitions, imposes specific obligations and prohibitions on employers, establishes employee data access rights, creates required written notices when ADS are used in disciplinary or termination decisions, and provides enforcement mechanisms.

Definitions

The bill would define several key terms, including the following:

- **Artificial intelligence** would mean an engineered or machine-based system that, for explicit or implicit objectives, infers from inputs how to generate outputs that influence physical or virtual environments.

- **Automated decision system (ADS)** would mean any computational process derived from machine learning, statistical modeling, data analytics, or artificial intelligence that issues simplified output (such as a score, classification, or recommendation) used to assist or replace human discretionary decision-making and that materially impacts natural persons. The definition expressly excludes tools such as spam filters, firewalls, antivirus software, identity and access management tools, calculators, databases, datasets, and other compilations of data.

- **Employee data** would include any information that identifies, relates to, or describes an employee, regardless of how the information is collected, inferred, or obtained.

Employer Requirements

The bill would prohibit an employer from using an ADS in several specific ways. An employer would be prohibited from using an ADS to interfere with compliance with labor, employment, occupational safety and health, or civil rights laws. The bill would prohibit the use of ADS to infer an employee's protected status under the FEHA (Government Code section 12940), or to predict and take adverse action against an employee for exercising legal rights under state or federal employment laws.

The bill would prohibit an employer from relying *solely* on an ADS to make any disciplinary or termination, decision. If an employer primarily relies upon an ADS output to make such a decision, the employer would be required to direct a human to corroborate the decision using data that was collected or used to produce the ADS output or other relevant corroborating or supporting information, which may include supervisory or managerial evaluations, personnel files, employee work product, peer reviews, or witness interviews (which may include relevant online customer reviews). If the employer cannot corroborate the ADS output, or the human reviewer has concluded that the output is inaccurate, incomplete, or misleading, the employer would be prohibited from using the ADS output to make the disciplinary or termination decision.

The bill would further create a right for an employee to request, and require an employer to provide, a meaningful, objective description of the employee's own data used by the ADS when an employer has primarily used an ADS to make a disciplinary or termination decision, and the employer would be required to provide that description in a manner that anonymizes the personal information of customers, other employees, and other individuals.

Post-Use Notice

The bill would require an employer that primarily relied upon an ADS to make a disciplinary or termination decision to provide the affected employee with a written post-use notice at the time the decision is communicated. The notice would need to be in plain language, provided as a stand-alone communication in the same language used for routine workplace communications, and delivered through a simple and accessible method, such as email, hyperlink, or other written format.

The notice would need to state that the employer primarily relied upon an ADS to make the decision and that a human reviewer corroborated the ADS output. It would also need to identify a specific human contact who can provide information regarding the decision, the employee's right to access relevant ADS data, and the employee's protections under the bill.

Enforcement

Employers would be prohibited from retaliating against employees for exercising rights under the bill, filing complaints, participating in investigations, or assisting in enforcement. The Labor Commissioner may enforce the bill, including investigating alleged violations, issuing citations, ordering temporary relief, and filing civil actions; public prosecutors would likewise be authorized to enforce the bill. This bill would also provide that, in any civil action or administrative proceeding alleging a violation of the ADS-use prohibitions or the corroboration/sole-reliance rules, once it is shown that an ADS was used to make a disciplinary or deactivation decision, the burden shifts to the employer to demonstrate either that it did not primarily rely upon the ADS, or that it complied with the corroboration and post-use notice requirements.

Available relief would include damages, injunctive relief, attorney's fees and costs, and a civil penalty of five hundred dollars per violation. The bill would specify that it does not preempt local ordinances that offer greater protections. It would further provide that employers that comply with the notice requirements in this bill would not be required to comply with substantially similar state notice requirements, except for privacy related automated decision-making rules under the California Consumer Privacy Act. The bill would not apply to parties covered by a collective bargaining agreement that explicitly waives its provisions, provides for wages and working conditions, and includes protections against algorithmic management. Finally, the bill clarifies that it would also exempt ADS use required by, or reasonably necessary to comply with, a federal statute, regulation, or binding federal contract relating to aircraft development for the national airspace or products/services for national security, military, space, or defense purposes.

If signed into law, this bill would become operative July 1, 2027.

Status: Passed the Senate and the Assembly and has been presented to the Governor.

6. Advance Notice re: Termination Based on "Technological Displacement" (SB 951)

Existing law, the California Worker Adjustment and Retraining (WARN) Act (Labor Code § 1400, *et seq*.), requires covered employers to provide advance notice to affected employees and government entities prior to ordering a "mass layoff," "relocation," or "termination" at a "covered establishment" (as defined in the statute).

This bill would amend the CalWARN Act (Labor Code § 1401) to specify that if an employer is required to give notice of a mass layoff, relocation, or termination *and if* that event was caused in whole or in substantial part by an AI system (as defined) or other automated technology replacing or automating employment positions, then the employer would be required to include additional information in the notice:

- The number, classification or occupation, and work location of layoffs that are substantially due to the replacement or automation by AI or other automated technology.

- The job functions performed by those replaced workers that will be automated by AI or other automated technology.

- The specific category or type of AI system or other automating technology that substantially resulted in technological displacement.

- A statement: "This notice is for a technology displacement" at the top of the notice.

The EDD would be required to publish a summary of the notices received pursuant to this new rule on its website and post a quarterly statewide summary of technology displacements reported pursuant to the law.

The bill would also require the EDD to submit a report to the Legislature on AI's effects on business hiring practices and include recommendations regarding a public notice requirement for employers or businesses engaged in technological cessation in hiring; or a summary of the trends in hiring demand based on AI; or a summary of how businesses use AI and its effects on hiring, including technological cessation in hiring; or a summary of existing research regarding the effects of AI on business's hiring needs and practices.

Status: Passed the Senate and Assembly and has been presented to the Governor.

7. **Restrictions on the Use of Workplace Surveillance Tools in Bathrooms (AB 1331)**

Existing law (Labor Code section 435) already prohibits an employer from making an audio or video recording of an employee in a restroom, locker room, or room designated for changing clothes, unless authorized by court order. This bill would expand those restrictions on the use of workplace surveillance tools in bathrooms.

The bill would apply to all employers, meaning any person or governmental entity that directly or indirectly, or through an agent or other person, employes or exercises control over the wages, hours, or working conditions of any person. "Employer" is specifically defined to include all branches of state government, the University of California, the California State University, a city, county, city and county, special district, transit district, school district, community college district, or any other state or local governmental entity; labor contractors, farm labor contractors, and foreign labor contractors.

It would protect employees, defined as any persons engaged, suffered, or permitted to work by an employer.

"Workplace surveillance tools" would mean "any system, application, instrument, or device that collects or facilitates the collection of employee data, activities, communications, actions, biometrics, or behaviors by means other than direct observation by a person, including, but not limited to, video or audio surveillance, continuous incremental time-tracking tools, geolocation, electromagnetic tracking, photoelectronic tracking, or that utilizes a photo-optical system or other means." For purposes of this bill, "artificial intelligence" would mean "an engineered or machine-based system that varies in its level of autonomy and that can, for explicit or implicit objectives, infer from the input it receives how to generate outputs that can influence physical or virtual environments."

The bill would prohibit employers from using workplace surveillance tools to monitor or surveil employees in a bathroom located in the workplace, unless directed by a court order.

Employees would have the right to leave behind workplace surveillance tools that are on their person or in their possession when entering a bathroom, unless they are required to remain available during meal or rest periods pursuant to federal law or existing state law.

Employers would be permitted to check workplace surveillance tools for the one-time entry and exit of bathrooms in the workplace. In addition, the bill specifies that an employer would not be in violation of the section if an employee voluntarily chooses to bring a workplace surveillance tool into a bathroom in the workplace, *or* an employee brings a workplace surveillance tool, including a badge or personal alarm system into a bathroom in the workplace because the employer has a policy that requires the workplace surveillance tool to be in the employee's possession while on work premises for identification or safety purposes or if the tool is required to access a locked or secured bathroom, if the tool does not detect or record audio or video and does not have physically embedded or attached artificial intelligence.

The bill has a limited exception for workplace surveillance tools used by an employer relating to the development of aircraft or products or services for national security, military, space, or defense purposes when the use of a workplace surveillance tool is reasonably necessary to comply with a federal statute, federal regulation, or binding federal contract.

The bill provides that it does not preempt any city or county ordinance that provides equal or greater protection to employees.

The new law would be enforceable by the Labor Commissioner or a public prosecutor, who could seek temporary or preliminary injunctive relief, including punitive damages, and reasonable attorney's fees and costs. In addition, employers could be liable for civil penalties of $500 per violation of the law.

The bill states that it does not prohibit employers from using workplace surveillance tools as required by federal law or regulation or existing state law or regulation, nor authorize employers to use workplace surveillance tools prohibited by law or existing state law.

Status: Passed the Assembly and the Senate on party line votes and has been presented to the Governor.

8. **Restrictions on the Use of Workplace Surveillance Tools to Collect Neural Data or Recognize Emotional State (AB 1883)**

This bill has the same definition of key terms as AB 1331, discussed immediately above (including workplace surveillance tools, artificial intelligence, employers, and employees), but would impose a different limitation on workplace surveillance tools. It would prohibit an employer from using a workplace surveillance tool that uses artificial intelligence to collect neural data or recognize or make inferences or predictions about an individual's emotional state.

The bill would not prohibit employers from using a workplace surveillance tool to ensure safety. Like AB 1331, it also has a limited exception for workplace surveillance tools relating to the development of aircraft or products or services for national security, military, space, or defense purposes when the use of a workplace surveillance tool is reasonably necessary to comply with a federal statute, federal regulation, or binding federal contract.

Similar to AB 1331, the bill provides for enforcement by the Labor Commissioner or public, who could seek damages including punitive damages, temporary or preliminary injunctive relief, and reasonable attorney's fees and costs. In addition, an employer who violates the new law would be subject to a civil penalty of $500 per violation.

The bill provides that it does not preempt any city or county ordinance that provides equal or greater protection to employees.

This bill is a much narrower version of last year's AB 1221, which died in the Assembly Appropriations Committee.

Status: Passed the Assembly and Senate on party-line votes and has been presented to the Governor.

ADDITIONAL PROPOSED NEW CALIFORNIA EMPLOYMENT LAWS

Harassment/Discrimination/Retaliation

Uniform Statewide Definition of "Sex Discrimination" Across All California Codes (AB 2563)

Existing law provides various protections against sex-based discrimination under the California Constitution, the Unruh Civil Rights Act, and the Fair Employment and Housing Act (FEHA). These statutes and constitutional provisions prohibit discrimination based on sex, gender, pregnancy, and related medical conditions, but the scope and terminology vary across different state codes.

This bill would create a uniform, expansive definition of "sex discrimination" that applies across all California codes. Under the bill, any state law prohibiting discrimination on the basis of sex or gender must be interpreted to include discrimination based on a wide range of characteristics, including gender identity, gender expression, sexual orientation, intersex traits, conformity to sex or gender stereotypes, pregnancy related medical conditions, and access to or use of reproductive or gender affirming care. The bill would also amend the Unruh Act and FEHA to adopt this expanded definition. These provisions are expressly tied to, and must be construed liberally to effectuate, the existing protections in the California Constitution regarding equal protection, privacy, safety, happiness, and reproductive freedom.

***Status*:** Passed the Senate and the Assembly and has been presented to the Governor.

Expansion of Workplace Violence Restraining Order Rules to Allow Restraining Order on Behalf of Reasonably Identifiable Group of Employees (AB 1961)

Existing law (Code of Civil Procedure section 527.8) allows an employer or collective bargaining representative to seek a workplace violence restraining order on behalf of an employee who has suffered harassment, unlawful violence, or a credible threat of violence and on behalf of other employees at the workplace.

This bill would allow an employer to seek a workplace violence restraining order on behalf of all employees at the workplace or location at which a group of employees perform their primary job duties if harassment, unlawful violence, or a credible threat of violence is directed at that workplace or location. The bill would not require an employer to name any individual employee as a protected party. The court would be able to issue an order enjoining a party from telephoning, contacting, or coming within a specified distance of the workplace or location.

The bill would require the Judicial Council to update or modify its forms regaled to workplace violence restraining orders, but not until January 1, 2028.

Status: Unanimously passed the Assembly and Senate and has been presented to the Governor.

Remote Appearances and Electronic Filings re: Workplace Violence Restraining Orders (AB 2179)

Existing law (Code of Civil Procedure section 527.8) allows an employer or collective bargaining representative to seek a workplace violence restraining order on behalf of an employee who has suffered harassment, unlawful violence, or a credible threat of violence. This bill would allow any party or witness to appear remotely at a hearing on such a petition and would prohibit any fee for appearing remotely. The bill would also require courts to allow filings related to such protective orders to be submitted electronically. Both new rules would take effect July 1, 2028.

Status: Unanimously passed the Assembly and the Senate and has been presented to the Governor.

Human Resources/Workplace Policies

Pregnancy as a Triggering Event for Enrollment or Changing a Health Benefit Plan (AB 2066)

Existing law (Health and Safety Code section 1399.849) requires health care service plans or disability insurers to allow an individual to enroll in or change their health benefit plan as a result of specified triggering events. This bill would make pregnancy a triggering event for purposes of enrollment or changing a health benefit plan.

Status: Unanimously passed the Assembly and Senate and has been presented to the Governor.

Training for Opioid Overdose Reversals (AB 2150)

In 2024, California enacted a law (Labor Code section 6723) requiring the Occupational Safety and Health Standards Board to submit a draft rulemaking proposal before December 1, 2027 to revise applicable regulations and require all first aid materials in a workplace to include naloxone hydrochloride or another opioid antagonist approved by the U.S. Food and Drug Administration to reverse opioid overdose and instructions for using the opioid antagonist.

This bill would add section 1797.197b to the Health and Safety Code and would require any employer that requires cardiopulmonary resuscitation (CPR) certification training of its employees to also require those employees to take an online video training on the use of naloxone approved by the Emergency Medical Services Authority, including but not limited to those offered by the American Heart Association or the American Red Cross, to increase the rate of opioid overdose reversals. Employers would be required to pay the costs for the training. The new training would be separate from the existing CPR training. The Emergency Medical Services Authority would be required to review and approve the training modules to ensure they include certain specified topics. The bill specifies that an employee who has completed CPR certification, first aid certification, or other training through a program that the Emergency Medical Services Authority determines includes training meeting or exceeding these standards would not be required to receive separate training. The bill specifies that the training required under the section would be for educational and preparedness purposes only and would not create an independent duty, authorization, or expectation for any employee to administer naloxone.

Status: Unanimously passed the Assembly and Senate and has been presented to the Governor.

Increased Prohibition on Immigration-Related Practices (AB 2495)

This bill arises from the concern that unscrupulous employers use unfair immigration-related practices to preemptively silence immigrant workers and compel them to accept substandard working conditions. Existing law (Labor Code section 1019) prohibits an employer or other person from engaging in, or directing another person to engage in, an unfair immigration-related practice for the purpose of, or with the intent of, retaliating against a person for exercising a right protected under state labor and employment laws. This bill would make several changes to that law:

- First, the law currently prohibits unfair immigration-related practices in retaliation for exercising rights protected under the Labor Code or local ordinances. This bill would expand the law to also prohibit unfair immigration-related practices in retaliation for *attempting to exercise* any rights, and would clarify that people are protected for exercising or attempting to exercise rights protected under *federal statutes or regulations* (not just state under state law).

- Second, the bill would add a new prohibition – it would be unlawful for an employer or any other person to engage in any other conduct related to any person's perceived immigration status that would reasonably tend to dissuade a person from engaging in conduct the person has a legal right to engage in under local, state, or federal law applicable to employees, or to induce a person to engage in conduct the person has a legal right to abstain from under such laws.

- Third, the bill would expand the remedies for violation of the law.

    - The law currently allows for equitable relief, damages, and suspension of licenses, as well as attorneys' fees and costs.

    - This bill would also provide that an employer who violates the section would be liable for **a civil penalty not exceeding $10,000 per person** for each violation of the section, to be awarded to the employee or person who suffered the violation.

- The bill would clarify that actual immigration status is irrelevant to determination of liability under Labor Code section 1019.

- Finally, the bill would define "employee" for purposes of this section to include an applicant, employee, or former employee.

Status: Passed the Assembly and the Senate on party-line votes and has been presented to the Governor.

Wage and Hour

Increase in the Statewide Minimum Wage

California's statewide minimum wage will increase to **$17.40** per hour on **January 1, 2027**. This means that minimum salary threshold for employees to be considered exempt under the executive, professional, and administrative exemptions will also increase to **$72,384** per year. Remember that certain categories of employees (including fast food workers and health care workers) are subject to higher minimum wages, and some cities and counties have higher minimum wages. Here are some of the new minimum wages that went into effect on January 1, 2026 and July 1, 2026; we will update this chart in our October newsletter with any local minimum wages that will increase on January 1, 2027.

City or County	Effective January 1, 2026	Effective July 1, 2026
Alameda		$17.76
Belmont	$18.95	
Berkeley		$19.61
Burlingame	$17.86	
Cupertino	$18.70	
Daly City	$17.50	
Downey (healthcare workers)	$25 for facilities with 10k or more employees	
East Palo Alto	$17.90	
El Cerrito	$18.82	
Emeryville		$20.34
Foster City	$17.85	
Fremont		$18.05

Half Moon Bay	$17.91	
Hayward	$16.90 (businesses with 25 or fewer employees) $17.79 (businesses with 26 or more employees)	
Los Altos	$18.70	
Los Angeles (City)		$18.42
Los Angeles (County)		$18.47
Malibu		$17.91
Menlo Park	$17.55	
Milpitas		$18.50
Mountain View	$19.70	
Novato	$16.90 (1-25 employees) $17.46 (26-99 employees) $17.73 (100 or more employees)	
Oakland	$17.34 $18.85 (Hotel min. wage w/ health benefits) $25.14 (Hotel min. wage w/o health benefits)	
Palo Alto	$18.70	
Pasadena		$18.57
Petaluma	$18.31	
Redwood City	$18.65	
Richmond	$19.18	
San Carlos	$17.75	

San Diego	17.75 $19 (Hotels/Amusement parks) $21.06 (Event Centers)	
San Francisco		$17.35 ("government supported employees") $19.61
San Jose	$18.45	
San Mateo (City)	$18.60	
San Mateo (County)	$17.95	
Santa Clara	$18.70	
Santa Monica		$18.47 $25.00 (Hotel Workers)
Santa Rosa	$18.21	
Sonoma	$17.38 (25 or fewer employees) $18.47 (26 or more employees)	
South San Francisco	$18.15	
Sunnyvale	$19.50	
West Hollywood	$20.25 for non-hotel employees (this rate will be in effect until December 31, 2026)	$20.87 for hotel employees (this rate will be in effect until June 30, 2027)

For a full list of California local minimum wages, visit UC Berkeley Labor Center's list here.

Increased Penalties for Subsequent Failures to File Pay Data Reports (SB 1237)

Existing Law (Government Code section 12999) requires private employers with 100 or more employees (or 100 or more labor contractor employees) to submit annual pay data reports to the Civil Rights Division (CRD), including mean and median hourly rates for employees with each combination of race, ethnicity, and sex within each job category at each establishment. Last year, the Legislature amended the law to make penalties for violation of the law mandatory. If the CRD asks, the court must impose a civil penalty up to $100 per employee upon any employer who fails to file the required report and up to $200 for a subsequent failure to file. This bill would increase the maximum penalty for a subsequent failure to file to $1,000 per employee.

The bill would also require the CRD to annually publish the total number of pay data reports submitted and to publish aggregated reports based on the data obtained in a manner reasonably calculated to prevent the association of any data with any individual business or person.

Status: Passed the Senate and Assembly on party-line votes and has been presented to the Governor.

Increased Minimum Wage for Agricultural Employees (AB 2646)

Existing law establishes a minimum wage for most employees across the state (including agricultural workers) of $16.90. This bill would increase the minimum hourly wage for an "approved agricultural employee" and "corresponding employee" to $19.75/hour, subject to upward adjustment for cost-of-living adjustments each year, beginning January 1, 2027.

The bill would define "approved agricultural employee" to mean an employee engaged in agriculture who is a resident outside of the state and is permitted to work in the state on a temporary or seasonal basis through an application process where the Labor and Workforce Development Agency or the Employment Development Department has approved, in part or in whole, an application or job order to hire agricultural workers from outside of the state on a temporary or seasonal basis. "Corresponding employee" would mean an employee engaged in agriculture who is a resident of the state and who performs the same, or substantially similar work during the same time period as an approved agricultural employee employed by the same employer in the same county. It appears that this bill is a response to the federal Department of Labor's recent rule change regarding compensation for H2A visa holders (which substantially reduced the required pay rate for those workers).

Status: Passed the Assembly and Senate on party-line votes and has been presented to the Governor.

Disclosure of Wage-and-Hour Violations as Condition of Submitting Bid to a Local Agency (AB 1838)

Existing law governs the procurement process for contracts of specified public entities. This bill would create a new Section 2011 in the Public Contract Code and specify that as a condition of submitting a bid to a local agency for a public works contract, a contractor shall fully disclose any history of wage-and-hour violations and provide supporting documentation. To the extent applicable, the contractor would be required to submit a written disclosure of any federal, state, or local wage-and-hour violations within the past five years and documents demonstrating that each disclosed violation has been corrected or resolved. For purposes of this rule, "violation" would mean a final judgement, order, or determination by a court or administrative agency finding a contractor liable for owed wages or related damages, interest, fines, or penalties.

The bill would require a local agency to establish an appeal process for contractors disqualified for failure to comply with the rules. A contractor would *not* be disqualified for any judgment, order or determination that is under appeal, provided the contractor has secured the possible payment through a bond or other appropriate means. The will would not apply to public works projects covered by project labor agreements or a project for which a local agency requires contractors to prequalify by disclosing wage and hour violations.

Status: Passed the Assembly and the Senate and has been sent to the Governor.

Exemption from Meal Period Requirements for Stationary Engineers Covered by Collective Bargaining Agreements (AB 2078)

Existing law (Labor Code section 512) requires employers to provide employees with meal periods of at least 30 minutes if employees work for more than 5 hours in a workday and requires employers to provide a second meal period if employees work for more than 10 hours in a workday. There are several limited exceptions to this rule, including for various types of employees who are covered by a valid collective bargaining agreement that expressly provides for meal periods (among other things).

This bill would exempt employees who perform building maintenance work as a stationary engineer from the meal period requirements if they are covered by a valid collective bargaining agreement that meets the requirements set forth in the statute.

“Stationary engineer” would be defined to mean a skilled tradesperson located in a fixed facility who operates, maintains, monitors, and repairs stationary mechanical equipment and building systems, including those involving boilers, chillers, heating, ventilation, and air conditioning systems, pumps, compressors, power generation equipment, and other critical plant machinery and whose occupation has a state-registered apprenticeship program that was established on or before December 31, 1964, and includes the name “Stationary Engineer” in the program’s occupation.

Status: Unanimously passed the Assembly and Senate and has been presented to the Governor.

Change to Policies regarding Changes to Prevailing Wage for Public Works Projects (AB 1198)

Current law requires that workers on public works projects must be paid the prevailing wage, as determined by the Director of Industrial Relations. Current law provides *until July 1, 2026,* if the director determines during any quarterly period that there has been a change in any prevailing rate of per diem wages in a locality, the director is required to make that change available to the awarding body and their determination is final; but the determination does not apply to public works contracts for which the notice to bidders has been published. Current law provides that *starting on July 1, 2026*, that process would change, such that if the director determines there is a change in any prevailing wage, the determination will apply to any contract that is awarded or for which notice is published after July 1, 2026; and any contractor, awarding body, or worker representative could challenge the change in rates pursuant to a specific procedure.

This bill would change the effective date for this change in procedure from July 1, 2026 to July 1, 2027, and specify that the changed prevailing wage would apply to contracts awarded or for which notice to bidders is published after July 1, 2027 if the awarded value of the prime contract is $35,000,000 or greater. It would also specify that the new (post-July 1, 2027) procedure will not apply to contracts for certain defined housing development projects. The authors have indicated that this measure seeks to ensure workers are not locked into prevailing wage rates that are outdated and misaligned with industry standards; and allows higher rates to be paid mid-contract.

Status: Passed the Assembly and Senate and has been presented to the Governor.

Public Sector/Labor Relations

Disqualification from Public Employment Based on Prior Immigration-Enforcement Employment (AB 1896)

Existing law establishes numerous qualifications and disqualifying conditions for peace officers and other public employees, including felony convictions, certain mental-health findings, and revocation of law-enforcement certification. Existing law also requires peace officers to meet minimum hiring standards such as good moral character and freedom from bias and authorizes CalHR to deny eligibility for state civil-service positions based on misconduct.

This bill, called the "Get The Feds Out" (GTFO) Act, would disqualify any person from public employment — including with a city, county, district, or other public agency — because they were previously employed as a sworn law enforcement officer or individual contractor and personally engaged in immigration enforcement, commencing January 1, 2028. The bill applies this same disqualification specifically to peace officers and incorporates it into existing certification-revocation standards administered by the Commission on Peace Officer Standards and Training (POST). Rather than an entity-based carveout, the bill's sole exception operates through a case-by-case suitability review, allowing a hiring agency to admit an otherwise-disqualified applicant into a POST basic training course based on standards POST must adopt by January 1, 2028, with input from a new multi-stakeholder working group.

The bill also adds several compliance mechanisms: a perjury-backed disclosure declaration for peace-officer applicants, a parallel disclosure question on state employment application forms, authority for CalHR to refuse examination or appointment on this basis, and expanded background-check requirements covering immigration enforcement history.

***Status*:** Passed the Assembly and the Senate and has been presented to the Governor.

State Employment: Telework Program Requirements (AB 1729)

Existing law requires state agencies to review their operations, determine where telecommuting is practical and beneficial, and implement agency telecommuting plans. The Department of General Services (DGS) oversees these programs by developing statewide policies, procedures, and guidelines and by establishing criteria to evaluate the effectiveness of the state's telecommuting program. This bill would update and expand these requirements by replacing the term "telecommuting" with "telework" and revising the framework governing state telework programs. The bill would require DGS to create a public telework dashboard tracking the cost effectiveness and efficiency benefits of telework, including savings from reduced office space and operating costs. Each state agency would also be required, every ten years, to evaluate its telework program to ensure it aligns with operational needs and supports recruitment and retention. The bill would take effect immediately as an urgency statute.

Status: Passed the Assembly and the Senate and has been presented to the Governor.

State Provided Benefits

Workers' Compensation: Prepaid Card Payments (AB 1683) (*signed into law July 6, 2026)*

Prior law prohibited disability indemnity payments from being made by any written instrument unless it is immediately negotiable and payable in cash, but it allows employers, until January 1, 2027, to deposit temporary or permanent disability indemnity payments into an employee's prepaid card account if the employee consents. The prepaid card must meet specified requirements, including free full balance withdrawal, access to in network ATMs, no fees for point-of-sale purchases, and no credit features.

This new law removed the January 1, 2027 sunset and made this prepaid card payment option permanent. All existing safeguards would remain, including employee written consent, limitations on permissible fees, the ability for either party to change the payment method with 30 days' written notice, and protections for delayed transactions caused solely by state or federal banking regulations.

Status: Signed into law by Governor Newsom on July 6, 2026.

Expansion of Family Temporary Disability Insurance Coverage for Active-Duty Obligations (AB 2054)

This bill would expand eligibility for California's Family Temporary Disability Insurance (FTDI) program by broadening the definition of "covered active duty" for purposes of qualifying exigency leave. Under existing law, an employee may receive FTDI benefits when taking leave to address qualifying exigencies related to a family member's covered active military duty, but that coverage has generally been limited to deployments to a foreign country. The bill would amend the Unemployment Insurance Code so that "covered active duty" also includes military training, deployments that do not involve a foreign country, and, for reserve component members including the National Guard, service under a call or order to either federal or state active duty. As a result, an employee will be eligible for FTDI benefits when taking qualifying exigency leave related to a spouse's, domestic partner's, child's, or parent's expanded forms of military service, including service by reservists and National Guard members.

This expanded eligibility is not effective immediately. The bill keeps the current, narrower definition in place until Section 3301.5 is incorporated into the Employment Development Department's integrated claims management system as part of the EDDNext project, or until July 1, 2028, whichever occurs sooner; the broader definition becomes operative at that same trigger point.

The bill would not impose new paid leave obligations on employers or alter employer-provided benefits. It would instead expand access to state-administered wage replacement benefits paid from the Unemployment Compensation Disability Fund, which is funded through employee payroll contributions.

Status: Passed the Assembly and Senate and presented to the Governor.

Privacy

Deletion of Personal Information under the CCPA (SB 923)

The California Consumer Privacy Act (CCPA) applies to defined companies in California and grants consumers (including employees) certain rights with respect to personal information that is collected by the business, including the rights to request that the business delete their personal information and to direct a business not to sell or share the consumer's personal information with third parties. The CCPA currently gives consumers the right to request that a business delete personal information that the business has collected *from* the consumer/employee, with certain exceptions. This bill would expand that right to allow the consumer to request the deletion of personal information the business has collected *about* the consumer/employee.

In addition, existing law states that if a business operates exclusively online and has a direct relationship with the consumer from whom it collects personal information, the business must provide consumers with an email address for submitting personal information request. This bill would also require that business to make available an online method, such as web form or online portal, for personal information requests.

Status: Passed the Senate and Assembly and has been presented to the Governor.

Privacy Settings in Operating Systems and Applications (AB 2561)

Existing law, beginning January 1, 2027, prohibits a business from developing or maintaining a browser that does not include functionality configurable by a consumer that enables the browser to send an opt-out preference signal to businesses with which the consumer interacts through the browser.

This bill would require an operating system or application to configure a user's default privacy setting to be the most privacy-protective setting offered by the operating system or application and would prohibit changing a user's privacy setting without the user's explicit consent except as required by state or federal law, court order, or in response to as subpoena in an individual case or proceeding.

For purposes of this bill, "Application" would mean a software program, mobile app, or desktop app that collects, processes, or stores personal information about a user in the state and that provides privacy settings allowing the user to control the collection, use, sharing, or disclosure of that personal information.

Status: Unanimously passed the Assembly and Senate and has been presented to the Governor.

Miscellaneous

Expanding Access to Construction Apprenticeships for Underrepresented Workers (AB 1980)

This bill would establish the Equal Representation in Construction Apprenticeships Grant Program, to be administered by the Department of Industrial Relations through its Division of Apprenticeship Standards, upon appropriation of funds by the Legislature. The program's stated goals are to expand access to registered pre-apprenticeship and apprenticeship programs for women, nonbinary individuals, and underrepresented populations; increase awareness of on-ramps into construction careers; and increase enrollment, completion, employment, and retention of these groups in the construction trades. The bill grants the department broad authority to issue rules, regulations, guidelines, policies, or procedures necessary to implement the program, leaving specific grant criteria, permitted uses of funds, applicant priorities, and reporting requirements to future rulemaking rather than specifying them in the statute itself.

Status: Passed the Assembly and Senate and has been presented to the Governor.

Validity of Arbitration Agreements (AB 2155) (*signed into law June 30, 2026)*

The California Arbitration Act generally makes written arbitration agreements valid and enforceable in California. The Federal Arbitration Act (FAA) likewise enforces arbitration agreements except in specific circumstances. Most notably, the FAA provides that employers cannot require mandatory arbitration agreements for certain transportation workers and for claims involving sexual harassment or sexual assault. Under prior law, even if the FAA prohibited mandatory arbitration for these reasons, an arbitration agreement might still be enforceable under the California Arbitration Act. This law closed that loophole. It provides that an arbitration agreement is not enforceable under the California Arbitration Act to the extent it would not be enforceable under the FAA. Thus, it incorporates into California law all exclusions from arbitration agreements recognized under federal law, including the FAA's exemption for transportation workers engaged in interstate commerce and the federal law prohibiting mandatory arbitration of sexual assault and sexual harassment claims.

Status: Signed into law by Governor Newsom on June 30, 2026.

Transportation Network Company Drivers: Certification Procedures and Appeals (AB 2682)

Existing law under the Transportation Network Company Drivers Labor Relations Act grants transportation network company (TNC) drivers collective bargaining rights and authorizes the Public Employment Relations Board (PERB) to adjudicate unfair practice claims involving TNCs and driver organizations. This bill would authorize any charging party, respondent, or intervenor aggrieved by a final PERB decision or order in an unfair practice case to petition the court of appeal for a writ of extraordinary relief, excluding decisions declining to issue a complaint. The bill would establish procedures for filing and reviewing such petitions, define standards of judicial review, and authorize PERB to seek court enforcement of final decisions when no petition is filed or when a party fails to comply.

Status: Passed the Assembly and the Senate and has been presented to the Governor.

Revisions to Labor Commissioner Administrative Proceedings (SB 1316) (*signed into law August 27, 2026)*

This new law makes several changes to administrative proceedings before the Labor Commissioner.

First, existing law (Labor Code section 98.2) sets out the procedure for proceedings following a Labor Commissioner award. Previously, the Labor Commissioner could create a lien on real property for amounts due under a final order in favor of an employee. That lien continues for ten years. This new law authorizes the lien to be renewed for additional 10-year periods.

Second, existing Law (Labor Code section 1174.5) provides that if a person has failed to provide documents pursuant to a written request from the Labor Commission, they cannot use those documents as evidence in an administrative proceeding contesting a citation or in specified writ proceedings. This new law additionally prohibits a person from in any other way using or relying on as evidence those withheld materials, including, but not limited to, attempting to impeach any witnesses.

Third, this law creates a new section in the Labor Code (Section 1742.05), which prohibits a contractor or subcontractor engaged in public works from using as evidence any documents that are not provided in response to a written request by the Labor Commissioner in accordance with specified procedures.

Status: Signed into law by Governor Newsom on August 27, 2026.

NEW FEDERAL REGULATIONS AND GUIDANCE

Proposed Regulations Defining Independent Contractor Status

The federal Department of Labor (DOL) has proposed a rule to define employee and independent contractor status under the Fair Labor Standards Act (FLSA), Family and Medical Leave Act (FMLA) and Migrant and Seasonal Agricultural Worker Protection Act (MSPA). The new proposed rule would replace the 2024 rule put in place by the Biden administration and return to the 2021 rule from the first Trump administration. The DOL accepted public comments through April 28, 2026.

According to the DOL, the new regulations would "[a]pply an 'economic reality' test to determine whether a worker is in business for himself or herself as an independent contractor or is an employee economically dependent on an employer for work; identify and explain two 'core factors' to help determine if a worker is economically dependent on an employer for work or in business for him- or herself: The nature and degree of control over the work, [and] The worker's opportunity for profit or loss based on initiative and/or investment; [and would] Identify other factors to help determine a worker's status as an employee or independent contractor, including the amount of skill required for the work, degree of permanence of the working relationship, and whether the work is part of an integrated unit of production."

The proposed regulations are available here and the DOL's Press Release is accessible here. These proposed regulations must still go through additional administrative steps before being finalized and may draw court challenges. It is unclear the amount of deference these regulations will be granted in the wake of the Supreme Court's *Loper Bright* decision. In light of this uncertainty, employers must still comply with state law regarding classification of employees and independent contractors and should consult federal caselaw in the applicable jurisdiction for guidance.

Proposed Regulations Defining Joint Employment

The DOL has also proposed amended regulations defining the joint employer relationship for purposes of the FLSA, FMLA, MSPA. The DOL accepted public comment through June 22, 2026.

According to the DOL, the new regulations would "[a]dvise that **horizontal joint employment** exists when separate employers are sufficiently associated with respect to the employment of the same employee, but that business relationships which have little to do with the employment of specific employees—such as sharing a vendor or being franchisees of the same franchisor—are alone insufficient to establish joint employment" and "[a]dopt a four-factor analysis for use in every case of potential **vertical joint employment**, examining whether the potential joint employer: 1. hires or fires the employee; 2. supervises and controls the employee's work schedule or conditions of employment to a substantial degree; 3. determines the employee's rate and method of payment; and 4. maintains the employee's employment records."

The proposed regulations are available here, and the DOL's Notice of Proposed Rulemaking is accessible here. These proposed regulations must still go through additional administrative steps before being finalized, and may draw court challenges. As noted above, It is unclear the amount of deference these regulations will be granted pursuant to the Supreme Court's *Loper Bright* decision. In light of this uncertainty, employers should consult applicable state rules and federal caselaw in the applicable jurisdiction for guidance regarding joint employer risk.

NEW STATE REGULATIONS

***Proposed* PAGA Regulations**

The California Labor and Workforce Development Agence (LWDA) announced proposed new PAGA regulations on February 5, 2026 and released modified proposed regulations on August 3, 2026. The revised proposed regulations, with a redline from the original draft, are available here. If adopted, these would be the first regulations implementing PAGA.

In issuing the regulations, the LWDA emphasized that PAGA actions are not designed to promote private enforcement but are instead intended to be law enforcement actions in furtherance of the public interest. The regulations are intended to implement PAGA, as it was amended in 2024. The LWDA points out that "[t]he 2024 reforms evince a legislative intent to increase Agency oversight of PAGA and provide more robust early resolution avenues for employers, both with a goal of achieving more timely remedies to make employees whole without the type of protracted and costly litigation that previously has led to criticism of the Act."

The regulations include extensive and specific administrative requirements for various proceedings before the LWDA in connection with PAGA matters. Here, we outline some of the most significant substantive proposals, but this is not an exhaustive summary of the proposed regulations.

- ***Applicability***

The regulations would apply to all pending administrative processes, including all administrative reporting obligations owed by an employee to the Agency in connection with any pending civil action asserting claims under PAGA, as of the date these regulations become effective, and would apply to all new PAGA notices filed after these regulations take effect.

- ***PAGA Notice & Restrictions on High-Frequency Filers***

Before filing suit under PAGA, employees must first provide notice to the Agency and the employer. Current law requires the notice to identify the specific provisions of the Labor Code the employer allegedly violated and include the facts and theories supporting each alleged violation. However, the LWDA notes that in practice, the notices they receive in many cases fail to satisfy the purpose of the notice requirement. They draw attention to the use of templates by high-frequency filers to repeat conclusory, boilerplate allegations, which are not useful for the LWDA and do not provide sufficient information to employers. The LWDA provides some remarkable statistics:

In fiscal year 2024-2025, 8,846 PAGA notices were filed. During this one-year period:

- Five law firms filed a total of 2,086 PAGA notices—about one-quarter (24%) of all PAGA notice filings;
- Three law firms filed on average more than one PAGA notice per day, with one filing 605 notices, another filing 535, and the third filing 409;
- Four law firms filed more than 300 PAGA notices;
- Eight law firms filed more than 200 PAGA notices;
- Five attorneys filed a total of 1,571 PAGA notices, accounting for about 18%, or almost one-fifth, of all PAGA notices;
- Ten attorneys filed a total of 2,192 PAGA notices, accounting for about one-quarter (25%) of all PAGA notices; and
- One attorney filed 597 PAGA notices and another filed 368.

The LWDA also notes that in many circumstances, attorneys who file PAGA notices do not report filing PAGA lawsuits, showing an apparent strategy to use PAGA notices as a bargaining chip to leverage quick individual settlements.

The proposed regulations provide guidance regarding the facts and theories alleged in a PAGA notice. The proposed regulations require the LWDA to prepare a notice form that employees would be required to use. The regulations would also describe the required contents of a PAGA notice, including background information regarding the employee’s employment, specific Labor Code sections allegedly violated, the facts and theories supporting the violations alleged, and the basis for the civil penalties sought. In addition, an employee or attorney filing a notice would be required to sign a certification stating that the claims are not presented for an improper purpose, have legal support, and have evidentiary support or are likely to have evidentiary support after investigation and discovery.

The regulations would also specify that no violation or theory of violation may be alleged in any subsequent lawsuit or included in any settlement agreement unless the violation, or theory of violation, was included in a PAGA notice or amended PAGA notice.

The proposed regulations provide that any attorney that has filed 100 or more, or law firm that has filed 200 or more, PAGA notices in the prior 12-month period would be required to provide a certification with each PAGA notice by the aggrieved employee that the employee has reviewed the PAGA notice and believes the allegations have support.

The LWDA would also be allowed to designate a person or attorney as a “non-compliant filer” on grounds that they have filed three or more PAGA notices in a 12-month period that do not comply with applicable requirements, but only after giving notice to the allegedly non-compliant filer and an opportunity to be heard. Non-compliant filers would then be subject to a prefiling screening order, pursuant to which the LWDA would review any PAGA notice they file to determine if it complies with the applicable legal requirements.

- ***Administrative “Cure” Procedures for Small Employers***

The proposed regulations would set out extensive administrative requirements for the small-employer cure procedure.

The proposed regulations provide instructions for who must be counted to determine whether the employer employed fewer than 100 employees – specifically, the term “employee” includes all exempt and non-exempt current and former employees employed at any time during the one-year period before the filing of a PAGA notice, including full-time, part-time, temporary-, seasonal, and intermittent employees, and without regard to the location of the employees.

The proposed regulations would also describe the content required in a cure proposal.

- ***Administrative “Cure” Procedures for Wage Statement Violations***

The proposed regulations set out the administrative requirements of the cure procedure.

- ***Settlement Procedures***

Although existing law requires plaintiffs to submit proposed settlement agreements to the LWDA, the Agency is seeking to make its oversight and review of proposed settlement agreements more effective. Thus, the proposed regulations would require the plaintiff to also submit a copy of a properly-noticed motion for approval of the settlement, including a memorandum of points and authorities that sets forth sufficient information from which the methodology or bases used or relied upon to value the amount of civil penalties to be recovered for each of the PAGA claims can be determined, and all declarations or other documents filed with the court, as well as a file-stamped copy of any notice of related cases filed in the action or a statement explaining why no notice of related cases was filed.

The proposed regulations would also require a settling plaintiff to provide notice to other plaintiffs with civil actions asserting PAGA claims pending against the same employer (and to give a copy of this notice and proof of service on such persons to the LWDA). Counsel for the settling defendant employer would have to verify the list of other plaintiffs with pending actions. Other employees with pending PAGA actions would be able to submit comments in favor of or against the proposed settlement to the LWDA.

The LWDA says this will provide improved transparency and coordination of multiple PAGA actions and will better protect the interests of the state and other workers to ensure PAGA settlements are adequate, fair, and reasonable.

The proposed regulations would prohibit an employee and employer from settling any claim not identified in a PAGA notice or on behalf of parties not included in a PAGA notice, and would prohibit an employee from filing an amended PAGA notice to add new claims or parties as part of, or after an employee has reached, a proposed settlement agreement with an employer in a pending civil action *unless the amended PAGA notice includes specific information*, including a list identifying any Labor Code sections not included in any earlier field PAGA notice, a statement clearly describing the specific facts supporting the newly alleged violations, a statement describing how the interests of justice are furthered by amending the PAGA notice, a description of the investigation or discovery conducted in connection with the newly alleged violations, and a statement describing the manner in which the claimant personally suffered the violations. The regulations specify that the 65-day review and 120-day investigation periods applicable to the filing of a new PAGA notice are also required when a claimant files an amended PAGA notice, including when a claimant files an amended PAGA notice in connection with a settlement; and that the claimant may not amend a complaint in any pending action or submit to the court for approval a proposed settlement including any new violations until these periods have expired. (Note that these new requirements for amended PAGA notices would apply to *any* amended PAGA notice.)

The proposed regulations clarify that a private agreement between an employee and employer after the employee has filed a PAGA notice but before filing a PAGA **lawsuit cannot release the employer from claims under PAGA** or purport to release claims belonging to the state or other persons.

For more information and the text of the proposed regulations, visit:
https://www.labor.ca.gov/resources/paga/rulemaking-labor-code-private-attorneys-general-act-of-2004/.

New Privacy Regulations Going Into Effect

The California Consumer Privacy Act (CCPA) applies to certain defined companies in California and grants consumers (including employees) certain rights with respect to personal information that is collected by the business, including the rights to request that the business delete their personal information and to direct a business not to sell or share the consumer’s personal information with third parties. Last year, the California Privacy Protection Agency approved new regulations covering cybersecurity audits, risk assessments, automated decision-making technology, insurance companies, and updates to existing CCPA regulations. These new regulations went into effect January 1, 2026, but have various dates by which covered businesses must comply with the new provisions. Employers covered by the CCPA should ensure they assess whether they are required to comply with these new regulations and take steps to comply by the applicable deadlines.

This is *not* a comprehensive summary of the regulations. For more information, visit the California Privacy Protection Agency website: https://cppa.ca.gov/regulations/ . You can access the complete amended regulations here: https://cppa.ca.gov/regulations/pdf/ccpa_updates_cyber_risk_admt_appr_text.pdf

- **Automated Decisionmaking Technology**
    - "Automated decisionmaking technology" (ADMT) is defined as any technology that processes personal information and uses computation to replace human decisionmaking or substantially replace human decisionmaking.
        - For purposes of the regulation "substantially replace human decisionmaking" means a business uses the technology's output to make a decision *without human involvement*. Human involvement requires the human reviewer to:
            - Know how to interpret and use the technology's output to make the decision;
            - Review and analyze the output of the technology, and any other information that is relevant to make or change the decision; and
            - Have the authority to make or change the decision based on their analysis.
    - The new regulations apply to businesses that use ADMT to make a significant decision concerning a consumer. "Significant decision" include employment-related decisions.
    - There are numerous detailed requirements for businesses that use ADMTs for these purposes, including:
        - Pre-use notice to consumers
        - Providing consumers the ability to opt-out of the businesses' s use of ADMT
        - Providing consumers the right to access information about the use of ADMT with respect to the consumer
    - As noted below, businesses that use ADMTs to make significant decisions must also complete risk assessments.

  - Businesses that use ADMT to make significant decisions must comply with the requirements beginning January 1, 2027.

- **Cybersecurity Audits**

  - The regulations require every business whose processing of consumers' personal information presents significant risk to consumers' security to complete an annual cybersecurity audit. A business's processing of consumers' personal information presents a significant risk if:

    - The business derives 50 percent or more of its annual revenues from selling or sharing consumers' personal information; or

    - The business had gross revenues over $25 million in the prior year, *and*

      - Processed personal information of 250,000 or more consumers or households in the prior year, or

      - Processed the sensitive personal information of 50,000 or more consumers in the prior year.

  - The dates by which businesses are required to complete cybersecurity audits vary by the size of the business and range from 2028 to 2030.

  - The regulations set out extensive requirements for the thoroughness and independence of cybersecurity audits, the scope of cybersecurity audits, and the contents of the audit report.

- **Risk Assessments**

  - Businesses whose processing of consumers' personal information presents significant risks to consumers' privacy must conduct a risk assessment before initiating that processing. The following activities present significant risks to consumers' privacy:

    - Selling or sharing personal information

    - Processing sensitive personal information (except that a business that processes the sensitive personal information of its employees or independent contractors for specified employment reasons is not required to conduct a risk assessment based on this processing)

    - Using ADMT for a significant decision concerning a consumer (This includes using and ADMT to make employment decisions.)

    - Using automated processing to infer or extrapolate a consumer's intelligence, ability, aptitude, performance at work, economic situation, health (including mental health), personal preferences, interests, reliability, predispositions, behavior, location, or movements under certain circumstances

    - Processing personal information of consumers which the business intends to use to train an ADMT

  - Businesses subject to these requirements must begin compliance by January 1, 2026 and submit information regarding the assessments by April 1, 2028.

  - The regulations set extensive requirements for the contents of the risk assessment and the timing and retention requirements for risk assessments.

If you have questions about how these new laws and regulations may affect your business, please contact us.

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