

## ASSEMBLY BILLS

### **AB 11            Gonzalez        Paid Sick Days: In-Home Supportive Services**

This bill would have amended legislation enacted in 2014 (AB 1522 - Gonzalez) related to paid sick days to extend coverage to employees who are in-home supportive services (IHSS) workers. IHSS workers were excluded from coverage under AB 1522.

*Status: Dead bill, held under submission in the Assembly Appropriations Committee.*

### **AB 20            Alejo                Undocumented Workers: California Agricultural Act**

The bill would have established framework for a program to provide undocumented persons who are agricultural employees a permit to work and live in California if such a program were to be authorized by federal law.

*Status: Dead bill, held under submission in the Senate Appropriations Committee.*

### **AB 67            Gonzalez        Double Pay on the Holiday Act of 2015**

This bill would have required an employer with more than 25 employees to pay a worker a two times the worker's regular rate of pay for work performed on Thanksgiving.

*Status: Dead bill, failed passage on the Assembly Floor.*

### **AB 145          Gomez            Public Benefits Reports**

This bill makes a technical clean-up change to legislation enacted in 2014 (AB 1792 - Gomez), which required the preparation of an annual report regarding employers in the state with the largest number of employees who are beneficiaries of the Medi-Cal Program.

*Status: Chapter 358, Statutes of 2015.*

### **AB 202          Gonzalez        Cheerleaders: Employee Status**

This bill was introduced following several high-profile cases involving professional sports cheerleaders who were alleged to have been misclassified as independent contractors or otherwise deprived of wages and other benefits of employment. The bill, for purposes of all of the provisions of state law that govern employment, requires a cheerleader who is utilized by a California-based professional sports team during its exhibitions, events, or games to be deemed an employee. The bill also requires the professional sports team to ensure that the cheerleader is classified as an employee.

*Status: Chapter 102, Statutes of 2015.*

**AB 219          Daly          Public Works: Concrete Delivery**

This bill is co-sponsored by the California Labor Federation, AFL-CIO, the Teamsters and the State Building and Construction Trades Council. This bill would expand the definition of “public works” to include the hauling and delivery of ready-mixed concrete. The bill requires the applicable prevailing wage rate to be the rate for the geographic area in which the concrete factory or batching plant is located. In addition, the bill requires the entity hauling or delivering ready-mixed concrete to enter into a written subcontract agreement with, and to provide employee payroll and time records to, the party that engaged that entity, as specified. Finally, the bill would provide that these provisions apply to public works contracts awarded on or after July 1, 2016.

*Status: Chapter 739, Statutes of 2015.*

**AB 251          Levine          Public Works: Public Subsidies**

Existing law excludes from the definition of "public works" a project wherein the use of public funds in "de minimis." This bill would have provided that a public subsidy is "de minimis" if it is both less than \$250,000 and less than 2% of the total project cost. The bill specifies that those provisions do not apply to a project that was advertised for bid, or a contract that was awarded, before July 1, 2016.

*Status: Vetoed by the Governor.*

**AB 272          Lackey          Reserve Peace Officers: FEHA**

This bill would have made a person deputized or appointed by the proper authority as a peace officer an "employee" for purposes of employment discrimination under the California Fair Employment and Housing Act (FEHA).

*Status: Vetoed by the Governor.*

**AB 304          Gonzalez          Paid Sick Days**

This bill is a follow-up measure to legislation enacted in 2014 related to paid sick days (AB 1522 – Gonzalez). This bill made a number of follow-up and clarifying changes to the accrual and other provisions of the new law. This bill contained an urgency clause and went into effect immediately when signed by the Governor on July 13, 2015.

*Status: Chapter 67, Statutes of 2015.*

**AB 326          Frazier          Public Works: Wage and Penalty Assessments**

Existing law provides that there is no liability for liquidated damages if a contractor, subcontractor, or surety deposits the full amount of the assessment or notice, including penalties, with the Department of Industrial Relations (DIR) to hold in escrow pending administrative or judicial review. This bill would require DIR to release the funds deposited in escrow plus interest within 30 days of the conclusion of all administrative and judicial review.

*Status: Chapter 345, Statutes of 2016.*

**AB 327          Gordon          Public Works: Volunteers**

This bill extends the sunset date on an existing exemption from public works law for specified "volunteers" until January 1, 2024.

*Status: Chapter 53, Statutes of 2015.*

**AB 357          Chiu          Fair Scheduling Act of 2015**

Based on an ordinance recently enacted in San Francisco, this bill would have added provisions to law designed to provide employees with more predictable work schedules and advance notice of such schedules. Among other things, the bill would have required a food and general retail establishment, as defined, to provide its employees with at least two weeks' notice of their schedules. The bill also would have required a food and general retail establishment to pay those employees additional pay, as specified, for each previously scheduled shift that the food and general retail establishment moves to another date or time or cancels and each previously unscheduled shift that the employer requires an employee to work, and would also require a food and general retail establishment to pay those employees a specified amount for each on-call shift for which the employee is required to be available but is not called in to work.

*Status: Dead bill, ordered to the inactive file on the Assembly Floor.*

**AB 359          Gonzalez          Grocery Worker Retention**

This bill was sponsored by the United Food and Commercial Workers Union. This bill, upon a change in control of a grocery establishment, requires an incumbent grocery employer to prepare a list of specified eligible grocery workers for a successor grocery employer, and requires the successor grocery employer to hire from this list during a 90-day transition period. The bill requires the successor grocery employer to retain eligible grocery workers for a 90-day period, prohibits the successor grocery employer from discharging those workers without cause during that period, and, upon the close of that period requires the successor grocery employer to consider offering continued employment to those workers.

*Status: Chapter 212, Statutes of 2015.*

**AB 465          R. Hernández          Contracts Against Public Policy**

This bill is sponsored by the California Labor Federation, AFL-CIO and is designed to protect workers from being involuntarily forced to waive enforcement of important labor protections as a condition of employment. AB 465 would have prohibited any person from requiring another person, as a condition of employment, to agree to the waiver of any legal right, penalty, forum, or procedure for any employment law violations. The bill would also prohibit a person from threatening, retaliating against, or discriminating against another person based on a refusal to agree to such waiver, and would provide that any such waiver required from an employee or potential employee as a condition of employment or continued employment is unconscionable, against public policy, and unenforceable. The bill would have required that any waiver of a person's employment rights, not

prohibited by state or federal law, be knowing and voluntary and in writing, and expressly not made as a condition of employment. In addition, AB 465 would provide that a person seeking to enforce a waiver has the burden of proof to show that the waiver was, knowing and voluntary. Finally, the bill would of applied to any waiver agreement entered into on or after January 1, 2016, and would have authorized injunctive relief and an award of reasonable attorney's fees to the prevailing claimant.

*Status: Vetoed by the Governor.*

**AB 488            Gonzalez            Rehabilitation: Dignity Stipend**

This bill authorizes individuals employed under a special license in a nonprofit sheltered workshop or rehabilitation facility to bring an action under the Fair Employment and Housing Act (FEHA) for prohibited harassment or discrimination. Such individuals are currently excluded from the definition of "employee" under FEHA.

*Status: Chapter 683, Statutes of 2016.*

**AB 500            Waldron            Independent Contractors**

This bill would have authorized a private employer, including a nonprofit entity, to deem a person an independent contractor, for a period not to exceed two years from the date of hire after successful completion of a drug or alcohol rehabilitation program if the person has no history of violent felony convictions and meets specified criteria.

*Status: Dead bill in the Assembly Committee on Labor and Employment.*

**AB 520            Levine            Apprenticeship**

This bill would have required the Occupational Safety and Health Standards Board (Standards Board) to adopt a standard that requires employers performing corrosion prevention work on industrial and infrastructure projects to use trained and certified personnel, as specified, and makes other changes to existing law.

*Status: Dead bill on the Assembly Floor.*

**AB 561            Campos            Agricultural Labor Relations**

This bill is sponsored by the United Farm Workers and would make two primary changes to the Agricultural Labor Relations Act. First, the bill would have required the Agricultural Labor Relations Board (ALRB) to process to final board order all decisions concerning make-whole awards, backpay, and other monetary awards to employees within one year or any board order finding liability for an award. Second, the bill would have required an employer who appeals or petitions for a writ of review of any order of the ALRB under the act involving make-whole, backpay, or other monetary awards to employees to post a bond in the amount of the entire economic value of the order, as specified, and would provide for the bond to be forfeited under specified conditions.

*Status: Vetoed by the Governor.*

**AB 578            Low            Occupational Safety and Health**

This bill would have addressed issues related to an employer's request of a variance from an occupational safety and health standard (which allows an employer permission not to follow a specified standard). Specifically, this bill would have required an employer to give notice to workers at the place of employment who will be affected by a permanent or temporary variance, or representatives of affected workers, who may be affected by or exposed to the hazards by the permanent or temporary variance. In addition the bill would have required any affected worker, or representative of affected workers, upon request, to be granted party status to the variance proceedings. Finally, the bill would require the variance application to include a certification that the employer has given notice to affected workers as required.

*Status: Vetoed by the Governor.*

**AB 588            Grove            Labor Code Private Attorneys General Act of 2004 (PAGA)**

Existing law requires an employer to provide its employees with specified information regarding their wages either semimonthly or at the time of each wage payment and provides that the employer does not have the right to cure a violation of that requirement before an employee may bring a civil action under PAGA. This bill would have provided an employer with the right to cure a violation of that wage statement law requirement before an employee may bring a civil action under PAGA.

*Status: Dead bill in the Assembly Committee on Labor and Employment.*

**AB 621            R. Hernández            Motor Carrier Employer Amnesty Program**

This bill is sponsored by the Teamsters, and would provide a limited amnesty to port trucking companies that enter into a settlement agreement with the Labor Commissioner to reclassify their drivers as employees rather than independent contractors. As part of the settlement agreement, the employer would be required to pay workers for wages previously unpaid, would be required to pay back taxes to the state, and would be required to reclassify its drivers as employees. In return, specified civil penalties would be forgiven.

*Status: Chapter 741, Statutes of 2015.*

**AB 622            R. Hernández            E-Verify**

This bill expands the definition of an unlawful employment practice under current law to prohibit an employer or any other person or entity from using the E-Verify system at a time or in a manner not required by a specified federal law or not authorized by a federal agency memorandum of understanding to check the employment authorization status of an existing employee or an applicant who has not received an offer of employment, except as required by federal law or as a condition of receiving federal funds. The bill also requires an employer that uses the E-Verify system to provide to the affected employee any notification issued by the Social Security Administration or the United

States Department of Homeland Security containing information specific to the employee's E-Verify case or any tentative nonconfirmation notice. Finally, the bill would provide for a civil penalty of \$10,000 for an employer for each violation of these provisions.

*Status: Chapter 696, Statutes of 2015.*

**AB 669          Daly          Minimum Wage: Qualifying Tipped Employees**

As introduced, this bill would have established the minimum wage for a qualifying tipped employee, on and after January 1, 2016, at \$10 per hour. The bill would have defined "qualifying tipped employee" to mean an employee who regularly receives income from wages at a rate equal to at least 150% of the minimum wage, as described. The bill would have defined "wages" for these purposes to mean all remuneration for services performed by an employee for his or her employer, including tips received by an employee in the course of his or her employment.

*Status: The labor provisions were subsequently amended out of this bill.*

**AB 676          Calderon          Discrimination: Status as Unemployed**

This bill, on and after July 1, 2016, would have prohibited an employer from publishing an advertisement or announcement for a job that states or indicates that an unemployed person is not eligible for the job. The bill would have prohibited an employer from asking an applicant for employment to disclose, orally or in writing, the applicant's employment status, until the employer has determined that the applicant meets the minimum employment qualifications for the position.

*Status: Vetoed by the Governor.*

**AB 795          Low          Wage Claims and Discrimination Complaints**

As introduced, this bill would have required the Labor Commissioner to include in its report to the Legislature, specified information on the status of wage claims and retaliation complaints including the average amount of time it takes for a wage claim to receive a preliminary hearing and the current backlog of claims and complaints.

*Status: The labor provisions were subsequently amended out of this bill.*

**AB 842          Patterson          Contractors: Essential Health Benefits**

This bill would have provided that a contractor that bids on or has been awarded work covered by a project labor agreement that provides health care coverage to workers on the project that is the subject of the agreement, that includes essential health benefits, and that provides evidence of that coverage to the entity awarding the contract, is exempt from a requirement to pay into a trust or custodial benefit plan for health and welfare or similar benefits for those workers an amount equal to the amount that the contractor would have been required to pay into that trust or custodial benefit plan for health care costs for those workers.

*Status: Dead bill, failed passage in the Assembly Committee on Labor and Employment.*

**AB 850          Ridley-Thomas          Employment: Hospitals**

This bill would have required an employer who employs individuals in a general acute care hospital to minimize the risk of occupational exposure to virulent aerosol transmissible diseases, as defined, and to provide optimal protection from occupational exposure to pathogens and aerosolized body fluids, as specified. The bill would have also required these employers to, among other things, provide any health care worker who enters the room of a specified patient with personal protection equipment and a powered air purifying respirator, as specified.

*Status: Dead bill in the Assembly Committee on Labor and Employment.*

**AB 852          Burke          Public Works: Prevailing Wages**

This bill would expand the definition of “public works,” for the purposes of prevailing wage law, to also include any construction, alteration, demolition, installation, or repair work done under private contract on a project for a general acute care hospital, except on a project for a rural general acute care hospital with a maximum of 76 beds, when the project is paid for, in whole or in part, with the proceeds of conduit revenue bonds, as defined, that were issued on or after January 1, 2016.

*Status: Chapter 745, Statutes of 2015.*

**AB 883          Low          Employment: Public Employee Status**

This bill would have, on and after July 1, 2016, prohibited a state or local agency, as defined, from publishing or posting a job advertisement or announcement that states or indicates that an individual’s status as a current or former public employee disqualifies an individual from eligibility for employment. The bill would have, on and after July 1, 2016, also prohibited a state or local agency from asking an applicant to specifically disclose, orally or in writing, the applicant’s status as a current or former public employee until the employer has determined that the applicant meets the minimum employment qualifications for the position.

*Status: Vetoed by the Governor.*

**AB 897          Gonzalez          Grocery Worker Retention**

As discussed above, the Governor signed AB 359 (Gonzalez) of 2015 related to grocery worker retention. However, the Governor's signing message requested clarifying changes to be enacted this year through subsequent legislation. Therefore, in response to the Governor's signing message, this bill specifies that a "grocery establishment" for purposes of the new law does not include a retail store that has ceased operations for six months or more.

*Status: Chapter 305, Statutes of 2015.*

**AB 970          Nazarian          Labor Commissioner: Enforcement of Employee Claims**

This bill would authorize the Labor Commissioner to investigate and enforce local laws regarding overtime hours or minimum wage provisions and to issue citations and penalties for violations, except when the local entity has already issued a citation for the same violation. The bill would

prohibit a local entity from issuing a citation to the employer if the Labor Commissioner has already issued a citation to that employer for the same violation. The bill would additionally authorize the Labor Commissioner to enforce provisions of law related to expense reimbursements by issuing citations and penalties to employers for violations of these requirements, as specified.

*Status: Chapter 783, Statutes of 2015.*

**AB 984 Calderon Use of Age Information in Employment**

This bill would have prohibited an employer from using information regarding a person's age in making any employment decision regarding that person. The bill would also have provided that a commercial online entertainment employment service provider, as defined, who accepts payment from persons in California to post resumes and other information online, is subject to the anti-discrimination laws of California.

*Status: Dead bill, held under submission in the Assembly Appropriations Committee.*

**AB 987 Levine Employment Discrimination: Unlawful Employment Practices**

This bill prohibits an employer or other covered entity from retaliating or otherwise discriminating against a person for requesting accommodation of his or her disability or religious beliefs, regardless of whether the accommodation request was granted. This legislation is in response to a recent California Court of Appeal decision in *Rope v. Auto-Clor System of Washington, Inc.*, 220 Cal. App. 4th 635 (2013) and clarifies that an employee cannot be retaliated against for requesting a reasonable accommodation for a disability or religion.

*Status: Chapter 122, Statutes of 2015.*

**AB 1007 McCarty Minimum Wage**

This bill would have set the minimum wage on and after January 1, 2016, at the amount necessary to keep a family of three above the supplemental poverty level established by the United States Census Bureau.

*Status: Dead bill in the Assembly Committee on Labor and Employment.*

**AB 1017 Campos Employment: Salary History**

One of several bills this year dealing with gender pay inequality, this bill would have prohibited an employer from seeking salary history information about an applicant for employment, except as otherwise provided. Supporters of the bill argued that asking applicants about salary history perpetuates salary inequality impacting women.

*Status: Vetoed by the Governor.*



**AB 1038      Jones      Employment: Flexible Work Schedules**

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

*Status: Dead bill, failed passage in the Assembly Committee on Labor and Employment.*

**AB 1050      Low      Occupational Safety: Permanent Variances**

This bill would have provided that if a request for a permanent variance pertains to a conveyance covered by the elevator safety orders, the applicant shall notify the union representing elevator workers in the region where the building is being constructed or modified and to those workers who will be performing the tasks pursuant to the proposed variance (or their authorized representative). Also would have provided that these workers, or their authorized representative, shall be granted party status upon request to the Occupational Safety and Health Standards Board (Standards Board).

*Status: Vetoed by the Governor.*

**AB 1065      Chiu      Employment: Unfair Practices**

This bill would have made it an unlawful employment practice for an employer to request more or different documents than are required under federal law relating to verification that an individual is not an unauthorized alien, or to refuse to honor documents tendered that on their face reasonably appear to be genuine, or to discriminate against an immigrant with authorization to work based upon the specific status or term of status that accompanies the authorization to work, or to attempt to reinvestigate or re-verify an incumbent employee's authorization to work unless required to do so by federal law or authority.

*Status: Dead bill, held under submission in the Assembly Appropriations Committee.*

**AB 1066      Gonzalez      Ag Workers: Wages, Hours and Working Conditions**

This bill enacts the Phase-In Overtime for Agricultural Workers Act of 2016. Over eight years, this bill will phase in standards that farmworkers shall not be employed more than eight hours in any one workday or work in excess of 40 hours in any one workweek, unless the employee receives overtime. This bill allows small businesses additional time to comply.

*Status: Chapter 313, Statutes of 2016.*

**AB 1158      Campos      Prevailing Wage**

The Jobs and Economic Improvement through Environmental Leadership Act of 2011 authorizes the Governor, until January 1, 2016, to certify projects for certain CEQA streamlining benefits if the project meets certain conditions, including a condition that the project creates high-wage, highly skilled jobs that pay prevailing wages. Existing law requires the applicant of a project that is so certified to include this wage condition in all contracts for the performance of work for the project.

This bill would have specified that the above wage condition is subject to enforcement by the Division of Labor Standards Enforcement. The bill would have made a project applicant who fails to pay, or fails to ensure the payment of, prevailing wages subject to the penalties for failure to pay prevailing wages on a public work.

*Status: Dead bill in the Assembly Committee on Labor and Employment.*

**AB 1270      E. Garcia      California Workforce Innovation and Opportunity Act**

This bill would update statutory references to the Workforce Investment Act of 1998 to instead refer to the Workforce Innovation and Opportunity Act of 2014 and make related conforming changes.

*Status: Chapter 94, Statutes of 2015.*

**AB 1308      Perea      Apprenticeship Programs: Approval**

Under existing law, the apprentice training needs in the building and construction trades are required to be deemed to justify a new apprentice program only if one or more specified conditions are met. This bill revises the conditions for when the apprentice training needs in the building and construction trades justify a new apprentice program. This bill also removes the authority of the California Apprenticeship Council to approve a new apprenticeship program justified by special circumstances by regulation.

*Status: Chapter 126, Statutes of 2015.*

**AB 1311      Cooper      Temporary Services Employees: Wages**

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

*Status: Chapter 61, Statutes of 2016*

**AB 1354      Dodd      Discrimination: Equal Pay: State Contracting**

This bill would have enacted the Equal Pay for Equal Work Act of 2015, which would require an employer with 100 or more employees in state, as specified, and a contract of 30 days or more, prior to becoming a contractor or subcontractor with the state, to submit a nondiscrimination program to the Department of Fair Employment and Housing and to submit periodic reports no more than annually of its compliance with that program. This bill would've permitted the department to require an employer with fewer than 100 employees in state or a contract of less than 30 days to submit a nondiscrimination report. In addition, this bill would have required the nondiscrimination program to include policies and procedures designed to ensure equal employment opportunities for all applicants and employees, an analysis of employment selection procedures, and a workforce analysis, as specified.

*Status: Vetoed by the Governor.*

**AB 1383      Jones      Veterans Preferences: Voluntary Policy**

This bill would have enacted the Voluntary Veterans' Preference Employment Policy Act to authorize a private employer to establish and maintain a written veterans' preference employment policy to give a voluntary preference for hiring or retaining a veteran over another qualified applicant or employee. In addition, this bill would have provided that the granting of a veterans' preference pursuant to the bill, in and of itself, shall be deemed not to violate any local or state equal employment opportunity law or regulation, including, but not limited to, the antidiscrimination provisions of the California Fair Employment and Housing Act.

*Status: Dead bill, failed passage in the Senate Judiciary Committee.*

**AB 1389      Patterson      Agricultural Labor Relations**

This bill would have made a number of changes to the Agricultural Labor Relations Act, and was introduced in response to a recent dispute between the United Farm Workers of America and Gerawan Farms, Inc. First, this bill would have prohibited a labor organization from abandoning or failing to represent a bargaining unit for three or more years. The bill would have required the Agricultural Labor Relations Board to decertify a labor organization that violates this provision. Second, the bill would have deemed members of the bargaining unit to be parties for the purposes of contract mediation provisions of existing law. Finally, this bill would have conditioned the effect and enforcement of an order resulting from binding mediation on the order being approved by a majority of the members of the affected bargaining unit.

*Status: Dead bill, failed passage in the Assembly Committee on Labor and Employment.*

**AB 1470      Alejo      Working Hours: Overtime**

This bill would establish a rebuttable presumption that an employee is exempt from overtime pay if the employee earns total gross annual compensation of at least \$100,000 and regularly performs any of the exempt duties or responsibilities of an executive, administrative, or professional employee as set forth in the Industrial Welfare Commission Wage Orders. This bill, to rebut the presumption, would require evidence that the employee did not earn total gross annual compensation of at least \$100,000, that the employee did not earn at least \$1,000 per week, as specified, or that the employee did not regularly perform at least one exempt duty of an executive, administrative, or professional employee. This bill would only apply to an employee whose primary duty includes office or nonmanual work, as described.

*Status: The labor provisions were subsequently amended out of this bill.*

**AB 1505      R. Hernández      Car Washes**

As introduced, this bill would require a car wash employer to provide written notice to a successor employer regarding specified registration requirements of existing law prior to the sale or other transfer of the business.

*Status: The labor provisions were subsequently amended out of this bill.*

**AB 1506      R. Hernández      Labor Code Private Attorneys General Act of 2004 (PAGA)**

Existing law requires an employer to provide its employees with specified information regarding their wages, including, among others, the inclusive dates of the period for which the employee is paid and the name and address of the legal entity that is the employer, either semimonthly or at the time of each wage payment and provides that the employer does not have the right to cure a violation of that requirement before an employee may bring a civil action under PAGA. This bill provides an employer with the right to cure a violation of the requirement that an employer provide its employees with the inclusive dates of the pay period and the name and address of the legal entity that is the employer before an employee may bring a civil action under PAGA. This bill provides that a violation of that requirement shall only be considered cured upon a showing that the employer has provided a fully compliant, itemized wage statement to each aggrieved employee, as specified. This bill limits the employer's right to cure with respect to alleged violations of these provisions to once in a 12-month period, as specified.

*Status: Chapter 445, Statutes of 2015.*

**AB 1507      Labor Committee      California Workforce Investment Act**

As introduced, this bill would have updated statutory references to the federal Workforce Investment Act of 1998 to instead refer to the federal Workforce Innovation and Opportunity Act and made related conforming changes.

*Status: The labor provisions were subsequently amended out of this bill.*

**AB 1508      Mullin      Workforce investment boards: funding**

This bill would have expanded of the types of services to which leveraged funds may be applied under the Workforce Investment Opportunity Act (WIOA), to include certain supportive services and expands the types of leveraged funds that may be applied to the 10% credit, to include specified federal, local, state, and private funds. This bill included an urgency clause. The Labor & Workforce Development Agency and CWDB is seeking these changes because they will enable Local Boards to incorporate into their plans the use of supportive services, as well as encourage them to seek partnerships with other entities that provide funding for training.

*Status: Dead bill in the Senate Rules Committee.*

**AB 1509      Roger Hernández      Employment Retaliation**

This bill makes two changes to California employment retaliation laws. First, the bill provides that an employer shall not retaliate against an employee because the employee is a family member of a person who has engaged in protected activity. Second, the bill provides that prohibitions against retaliation apply to a "client employer" or a "controlling employer." In addition, this bill enacts clarifying language related to AB 1897 (Roger Hernández) of 2014. Enacted last year, AB 1897 contained a limited exemption for certain subcontracting work performed by "motor carriers," as specified. It was assumed that this exemption also applied to certain "household goods carriers."

However, those entities are regulated by a different code section than "motor carriers." Therefore, the amendments to this bill clarify that the same limited exemption applies to certain work performed by "household goods carriers," and cross-references the appropriate statutory citation.  
*Status: Chapter 792, Statutes of 2015.*

**AB 1513 Williams Piece Rate Compensation**

The bill clarifies that piece rate employees are to be compensated for rest and recovery periods and other nonproductive time at or above specified minimum hourly rates, separately from any piece-rate compensation. The bill defines "other nonproductive time" for purposes of these provisions to mean time under the employer's control, exclusive of rest and recovery periods, that is not directly related to the activity being compensated on a piece-rate basis. In addition, this bill, until January 1, 2021, provides that an employer shall have an affirmative defense to any claim or cause of action for recovery of wages, damages, liquidated damages, statutory penalties, or civil penalties based solely on the employer's failure to timely pay the employee the compensation due for rest and recovery periods and other nonproductive time for time periods prior to and including December 31, 2015, if, by no later than December 15, 2016, the employer complies with specified requirements, subject to specified exceptions.

*Status: Chapter 754, Statutes of 2015.*

**AB 1595 Campos Employment: Human Trafficking: Mass Transit Employers**

This bill would have required private and public employers providing mass transportation services to train employees on human trafficking and requires the Department of Justice (DOJ) to develop guidelines for this training.

*Status: Dead bill, held under submission in the Assembly Appropriations Committee.*

**AB 1669 R. Hernández Displaced Employees: Solid Waste Collection/Transportation**

Existing law already establishes a bid preference for public transit contractors who agree to retain employees of the previous contractor for a period of at least 90 days. This bill extends those provisions to include contracts for the collection and transportation of solid waste.

*Status: Chapter 874, Statutes of 2016.*

**AB 1676 Campos Employers: Wage Discrimination**

This bill adds a provision to existing equal pay laws, stating that prior salary cannot, by itself, justify any disparity in compensation. Established exemptions to these provisions already exist in law including but not limited to, if the pay differential is made due, to a seniority system, a merit system or a system which measures earnings by quantity or quality of production.

*Status: Chapter 856, Statutes of 2016.*

**AB 1727      Gonzalez      Hosting Platforms: Independent Contractors**

This bill would have established rights for independent contractors to organize and negotiate with "hosting platforms" regarding specified subjects which include pricing, division of revenue, insurance and other issues.

*Status: Dead bill in the Assembly Judiciary Committee.*

**AB 1840      Gipson      State Agencies: Interns; Hiring Preferences**

This bill requires state agencies, when hiring for internships and student assistant positions, to give preference to homeless youth and formerly incarcerated youth.

*Status: Chapter # 404, Statutes of 2016.*

**AB 1843      Stone      Applicants for Employment: Criminal History**

This bill forbids employers from asking an applicant for employment to disclose information concerning or related to an arrest, detention, processing, diversion, supervision, adjudication, or court disposition that occurred while the person was subject to the process and jurisdiction of juvenile court law, or seek or utilize any such information as a factor in determining any condition of employment.

*Status: Chapter 686, Statutes of 2016.*

**AB 1865      Patterson      Contractors: Trust/Custodial Benefit Plans; Health Benefits**

This bill would have changed the provisions of health benefits on pre-hire collective bargaining agreements. Specifically that a contractor that bids on or has been awarded work covered by a project labor agreement and provides health care coverage to workers on the project, that includes "essential health benefits" under the Affordable Care Act, and that provides evidence of that coverage to the entity awarding the contract, is exempt from a requirement to pay into a trust or custodial benefit plan, that had been designated by the project labor agreement to provide health and welfare or similar benefits for those workers.

*Status: Dead bill, failed passage in the Assembly Committee on Labor and Employment.*

**AB 1890      Dodd      Discrimination: Equal Pay: State Contracting**

This bill enacts the Equal Pay for Equal Work Act of 2016 by seeking to compile data on gender wage inequity among state contractors. It requires an employer with a state contract to submit a federal nondiscrimination report, or submit an annual report to the Department of Fair Employment and Housing (DFEH) that includes summary data on the compensation paid to employees, sorted by gender and race, and a description of the employer's policies. This bill is intended to ensure pay equity and ensure state contractors have policies in place for preventing unlawful discrimination.

*Status: Vetoed by the Governor.*

**AB 1926      Cooper      Public Works: Prevailing Wage: Apprentices**

This bill specifies that, unless otherwise provided by a collective bargaining agreement, when a contractor requests the dispatch of an apprentice to perform work on a public works project and requires the apprentice to fill out an application, or undergo testing, training, an examination, or other pre-employment process as a condition of employment, the apprentice shall be paid for time spent on the required activity, including travel time to and from the required activity, if any, at the prevailing wage rate for apprentices in the trade to which he or she is registered.

*Status: Chapter 746, Statutes of 2016.*

**AB 1942      C. Garcia      Human Trafficking: Reporting/Training; Hotels & Motels**

This bill requires that a hotel or motel providing lodging services in the state, to train its employees who are likely to interact, or come into contact with, victims of human trafficking: in recognizing the signs of human trafficking and how to report those signs to the appropriate law enforcement agency, and requires the Department of Justice (DOJ) to develop guidelines for this training by July 1, 2017.

*Status: Dead bill, held under submission in the Assembly Appropriations Committee.*

**AB 1948      Wagner      Compensation: Meal and Rest Periods**

This bill would've made changes to provisions of existing law that provide a remedy for an employer's failure to provide a meal or rest or recovery period, as required under existing law. This would have included a requirement to pay an additional hour or pay for each day that a meal or rest or recovery period is not provided, and that shall be the entire "penalty amount" awarded to the employee. It also stated that payment of the additional hour of pay shall be considered a "penalty" for all purposes, including, but not limited to, the statute of limitations on an action.

*Status: Failed passage in the Assembly Committee on Labor and Employment.*

**AB 1978      Gonzalez      Employment: Property Service Workers**

This bill creates the Property Services Workers Protection Act, which seeks to protect janitorial employees from wage theft and sexual harassment. It creates a registration process for janitorial employers and requires sexual harassment and violence prevention training for janitorial workers.

*Status: Chapter 373, Statutes of 2016.*

**AB 2230      Chu      Overtime Pay: Private Schools: Teachers**

This bill amends an existing overtime exemption for private school teachers to tie the exemption to comparable public school teacher salaries, rather than the state minimum wage. Under existing law, private school teachers are exempted from overtime if they make at least twice the minimum wage.

*Status: Chapter 314, Statutes of 2016.*

**AB 2261      R. Hernández      Division of Labor Standards Enforcement: Duties**

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

*Status: Dead bill, ordered to the inactive file on the Senate Floor.*

**AB 2272      Thurmond      OSHA: Surgical Plume**

This bill requires the Division of Occupational Safety and Health (DOSH) to convene an advisory committee to develop a regulation regarding the protection of health care personnel and patients from exposure to vaporized human tissue, defined in this bill as "plume," among other things.

*Status: Vetoed by the Governor.*

**AB 2288      Burke      Apprenticeship Programs: Building and Construction Trades**

This bill requires pre-apprenticeship programs in the building and construction trades to include a plan for outreach, recruitment, and retention of women and require the use of the Multi-Craft Core Curriculum developed for the purpose of preparing students and pre-apprenticeship participants for labor-management apprenticeship programs.

*Status: Chapter 692, Statutes of 2016.*

**AB 2337      Burke      Employment Protections: Victims of Assault**

This bill expands employer notice requirements regarding domestic violence employee protections. It requires an employer to inform each employee of his or her rights established under current law protecting employees affected by domestic violence, by providing that information in writing to new employees upon hire and to other employees upon request. This bill requires the Labor Commissioner to develop a form that an employer may use to satisfy this notice requirement.

*Status: Chapter 355, Statutes of 2016.*

**AB 2370      Wagner      Industrial Welfare Commission: Wage Orders: Hours Worked**

This bill would have declared that the definition of "hours worked" as it pertains to the health care industry, in that existing wage order, was valid and enforceable on and after October 1, 2000, and continues to be valid and enforceable. The bill would have stated that the bill is declarative of, and clarifies, existing law. An existing wage order of the commission provides that "hours worked," within the health care industry, means the time during which an employee is suffered or permitted to work for the employer, whether or not required to do so, as interpreted in accordance with the provisions of the federal Fair Labor Standards Act.

*Status: Dead bill in the Assembly Committee on Labor and Employment.*



**AB 2405      Gatto      Employment: Employees: Time Off**

This bill would've required an employer to annually provide an employee at least eight hours of paid, job-protected, time off for the purposes of an absence for his or her child's school activities or school related emergency. Existing law provides job protections for parents taking up to 40 hours of unpaid time off when they're participating in their child's education.

*Status: Dead bill on the Assembly Floor.*

**AB 2437      Ting      Barbering and Cosmetology: Establishments: Posting Notices**

This bill seeks to educate business owners, employers, and employees about existing labor laws surrounding wages, overtime, tip distribution, meal periods, rest breaks, protections from retaliation, and where to report violations of the law. This bill requires an establishment licensed by the Board of Barbering and Cosmetology (BBC) to post a model notice pertaining to workplace rights and wage and hour laws, developed by the Labor Commissioner. It will also require the BBC to inspect for compliance of the posting requirement. This bill is sponsored by the Community Health for Asian Americans and Asian Americans Advancing Justice, because of concerns raised around the California nail salon industry, and accusations of labor law violations.

*Status: Chapter 357, Statutes of 2016.*

**AB 2461      Grove      Labor Code: PAGA of 2004**

This bill would've limited PAGA only to alleged violations of specified provisions of law dealing with meal and rest and recovery periods and overtime compensation.

*Status: Dead bill in the Assembly Committee on Labor and Employment.*

**AB 2462      Grove      Labor Code: PAGA of 2004**

This bill would've provided an employer with the right to cure any violation of the Labor Code before an aggrieved employee may bring a civil action under PAGA.

*Status: Dead bill in the Assembly Committee on Labor and Employment.*

**AB 2463      Grove      Labor Code: PAGA of 2004**

This bill would've established a cap on specified penalties under PAGA of \$1,000 for each aggrieved employee.

*Status: Dead bill in the Assembly Committee on Labor and Employment.*

**AB 2464      Grove      Labor Code: PAGA of 2004**

This bill would've authorized a court to dismiss an action as to an aggrieved employee seeking recovery of a civil penalty under PAGA, if, after notice and hearing, the court finds that the aggrieved employee suffered no appreciable physical or economic harm.

*Status: Dead bill in the Assembly Committee on Labor and Employment.*

**AB 2465      Grove      Labor Code: PAGA of 2004**

This bill would've provided that, upon receipt of a notice by an aggrieved employee alleging specified violations of the Labor Code pursuant to PAGA, the LWDA shall investigate the alleged violation and determine if there is a "reasonable basis" for a civil action within 120 calendar days.

*Status: Dead bill, failed passage in the Assembly Committee on Labor and Employment.*

**AB 2532      Chiu      Employment Services: Verification**

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

*Status: Chapter 759, Statutes of 2016.*

**AB 2535      Ridley-Thomas      Employment: Wages: Itemized Statements**

Existing law requires an employer to provide his or her employee with an accurate itemized statement in writing containing specified information, either semimonthly or at the time the employer pays the employee his or her wages. That specified information includes showing total hours worked by the employee, unless the employee's compensation is solely based on a salary and the employee is exempt from payment of overtime. This bill would additionally exempt from that requirement for information on total work hours an employee exempt from payment of minimum wage and overtime under statute.

*Status: Chapter 77, Statutes of 2016.*

**AB 2539      Levine      Modeling Agencies: Licensure: Models: Employees**

This bill would have required the Occupational Safety and Health Standards Board to adopt an occupational safety and health standard for models and sets forth other workplace requirements and protections for models and modeling agencies.

*Status: Dead bill, held under submission in the Assembly Appropriations Committee.*

**AB 2574      Chavez      Veteran Farmers and Ranchers**

This bill would have required state departments to develop a New Veteran Farmer and Rancher Outreach and Assistance Plan, to disseminate information to veterans in California about federal and state veteran agricultural education, training, and other assistance programs.

*Status: Dead bill, held under submission in the Senate Appropriations Committee.*

**AB 2757      Gonzalez      Ag Workers: Wages, Hours and Working Conditions**

This bill would've enacted the Phase-In Overtime for Agricultural Workers Act of 2016. Over six years, this will phase in standards that farmworkers shall not be employed more than eight hours in any one workday or work in excess of 40 hours in any one workweek, unless the employee receives overtime. This bill allowed small businesses additional time to comply.

*Status: Dead bill, failed passage on the Assembly Floor.*

**AB 2780      Holden      Fair Employment and Housing Council: Length of Terms**

This bill staggers the term lengths of the seven Fair Employment and Housing Council members under the Department of Fair Employment and Housing (DFEH), who is responsible for enforcing California's civil rights laws.

*Status: Chapter 188, Statutes of 2016.*

**AB 2879      Mark Stone      Service Member Employment Protection Act**

This bill would have safeguarded employment protections for active military service members and reserve guard members by, among other things, prohibiting the waiver of certain legal rights under Section 394 of the Military and Veterans Code as a condition of employment.

*Status: Dead bill, ordered to the inactive file on the Assembly Floor.*

**AB 2895      R. Hernández      Employee Safety: Injury Prevention Programs**

This bill would've required an employer to keep a complete, updated copy of the currently required written injury prevention program at each worksite with three or more employees, and to make it available for inspection by any employee or by the Division of Occupational Safety and Health upon oral request. This bill also would've required an employer to inform each employee and each new hire of the availability of, and of the employee's rights with respect to inspecting and receiving, a copy of the written injury prevention program.

*Status: Dead bill, ordered to the inactive file on the Senate Floor.*

**AB 2896      R. Hernández      Farm Labor Contractors: License: Payments**

This bill would authorize the Labor Commissioner to accept a credit card charge as a method of payment for farm labor contractor license fees, as provided.

*Status: The labor provisions were subsequently amended out of the bill.*

**AB 2897      R. Hernández      Car Washes**

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

*Status: Dead bill, ordered to the inactive file on the Senate Floor.*

**AB 2898      R. Hernández      PAGA of 2004**

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

*Status: Dead bill, ordered to the inactive file on the Senate Floor.*

**AB 2899      R. Hernández      Minimum Wage Violations: Challenges**

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

*Status: Chapter 622, Statutes of 2016.*

**AJR 12      E. Garcia      H1-B Visa Program: Investigation of Misuse**

This measure was introduced following concerns regarding outsourcing of work and alleged misuse of the H1-B visa program by employers, including Southern California Edison. This resolution would have urged the United States Department of Labor and the Congress of the United States to investigate alleged misuse of the H1-B Visa program.

*Status: Dead Resolution, ordered to the inactive file on the Senate Floor.*

**HR 58      Chang      United States Women's National Soccer Team**

This house resolution declares the support of the Assembly for the members of the United States Women's National Soccer Team in their efforts to be fairly compensated.

*Status: Adopted by the Assembly.*

## SENATE BILLS

### **SB 3            Leno            Minimum Wage**

This bill increases the minimum in increments, ultimately to \$15/hour by 2022 for most employers. Smaller employers would have an additional year to comply. Thereafter, the minimum wage would be indexed annually for inflation. This bill also extends existing paid sick days law to providers of in-home supportive services.

*Status: Chapter 4, Statutes of 2016.*

### **SB 45            Mendoza            Workforce Innovation and Opportunity Act (WIOA)**

This bill would have required the state, in conformity with WIOA and after consultation with local boards and chief elected officials, to identify planning regions. This bill would require local boards and chief elected officials to prepare regional plans for those planning regions, as specified. This bill would've also required the California Workforce Investment Board to aid the Governor in facilitating system alignment across the core programs of WIOA, as defined, and make related and conforming changes.

*Status: The labor provisions were subsequently amended out of the bill.*

### **SB 327            Ed Hernandez            IWC Wage Orders: Meal Periods**

This bill provides that the health care employee meal period waiver provisions in specified existing wage orders were valid and enforceable on and after October 1, 2000, and continue to be valid and enforceable. This bill states that it is declarative of, and clarifies, existing law. This bill was introduced in response to a recent decision of the California Court of Appeal in *Gerard v. Orange Coast Memorial Medical Center*, 234 Cal. App. 4th 285 (2015).

*Status: Chapter 506, Statutes of 2015*

### **SB 342            Jackson            California Workforce Investment Board**

This bill requires the California Workforce Investment Board to assist the Governor in helping individuals with barriers to employment achieve economic security and upward mobility by implementing policies that encourage the attainment of marketable skills relevant to current labor market trends.

*Status: Chapter 507, Statutes of 2015.*

### **SB 358            Jackson            Gender Wage Differential**

This bill makes a number of important changes to California's Equal Pay Act. First, this bill revises existing law to eliminate the requirement that the wage differential be within the same establishment, and instead would prohibit an employer from paying any of its employees at wage rates less than those paid to employees of the opposite sex for substantially similar work, when

viewed as a composite of skill, effort, and responsibility, as specified. Second, this bill revises and recasts the exceptions to require the employer to affirmatively demonstrate that a wage differential is based upon one or more specified factors, including a seniority system, a merit system, a system that measures earnings by quantity or quality of production, or a bona fide factor other than sex, as specified. This bill requires the employer to demonstrate that each factor relied upon is applied reasonably, and that the one or more factors relied upon account for the entire differential. Third, this bill prohibits an employer from discharging, or in any manner discriminating or retaliating against, any employee by reason of any action taken by the employee to invoke or assist in any manner the enforcement of these provisions. The bill authorizes an employee who has been discharged or discriminated or retaliated against, in the terms and conditions of his or her employment because the employee engaged in any conduct delineated in these provisions, to recover in a civil action reinstatement and reimbursement for lost wages and work benefits caused by the acts of the employer, including interest thereon, as well as appropriate equitable relief. Finally, this bill prohibits an employer from prohibiting an employee from disclosing the employee's own wages, discussing the wages of others, inquiring about another employee's wages, or aiding or encouraging any other employee to exercise his or her rights under these provisions.

*Status: Chapter 546, Statutes of 2015.*

**SB 406          Jackson          Employment: Family Leave**

This bill would've made various changes to the definitions under the California Family Rights Act, thereby expanding the persons and purposes for which leave is required to be provided under the act. Specifically, this bill redefines the term "child" to include a biological, adopted, or foster son or daughter, a stepchild, a legal ward, a son or daughter of a domestic partner, or a person to whom the employee stands in loco parentis, and removes the restriction on age or dependent status. This bill expanded the definition of leave with regard to caring for persons with a serious health condition to also include leave to care for a grandparent, grandchild, sibling, or domestic partner who has a serious health condition. Finally, this bill included a parent-in-law in the definition of "parent."

*Status: Vetoed by the Governor.*

**SB 432          Mendoza          Public Works: Aliens**

Existing law, with certain exceptions, requires the payment of not less than the general prevailing rate of per diem wages, for work of a similar character in the locality in which a public works project is performed, to all workers employed on a public works project. With respect to the extension of public works, existing law extends preference for employment first to California citizens, next to citizens of other states who are in California at the time of application, and next to aliens who are in California at the time of application. Existing law defines "alien" as any person who is not a born or fully naturalized citizen of the United States. Under existing law, the Department of Finance is required to ascertain and secure from state agencies tentative plans for the extension of public works that are best adapted to supply increased opportunities for advantageous public labor during periods of temporary unemployment in the state. These employment opportunities are available according

to the hiring preferences described above. This bill repeals this definition of “alien” and the provision requiring those preferences to be applied to the extension of public works employment during periods of unemployment in the state.

*Status: Chapter 160, Statutes of 2015.*

**SB 548          De León          Child Care: Family Child Care Providers**

As introduced, this bill would have authorized family child care providers, as defined, to form, join, and participate in the activities of provider organizations, as defined, and to seek the certification of a provider organization to act as the exclusive representative for family child care providers on matters related to state-funded child care programs pursuant to a petition and election process overseen by the Public Employment Relations Board or a neutral third party designated by the board.

*Status: The labor provisions were subsequently amended out of this bill.*

**SB 579          Jackson          Employees: Time Off**

Existing law prohibits an employer who employs 25 or more employees working at the same location from discharging or discriminating against an employee who is a parent, guardian, or grandparent having custody of a child in a licensed child day care facility or in kindergarten or grades 1 to 12, inclusive, for taking off up to 40 hours each year for the purpose of participating in school activities, subject to specified conditions. This bill would revise references to a child day care facility to instead refer to a child care provider. The bill would include the addressing of a child care provider emergency or a school emergency, as defined, and the finding, enrolling, or reenrolling of a child in a school or with a child care provider as activities for which a parent having custody of a child shall not be discriminated against or discharged, as described above. The bill would define “parent” for these purposes as a parent, guardian, stepparent, foster parent, or grandparent of, or a person who stands in loco parentis to, a child, thereby extending these protections to an employee who is a stepparent or foster parent or who stands in loco parentis to a child.

*Status: Chapter 802, Statutes of 2015.*

**SB 588          De León          Employment: Nonpayment of Wages**

This bill would enact special provisions for the enforcement of judgments against an employer arising from the employer’s nonpayment of wages for work performed in this state. The bill would authorize the Labor Commissioner (LC) to use any of the existing remedies available to a judgment creditor and to act as a levying officer when enforcing a judgment pursuant to a writ of execution, as provided.

The bill would also authorize the LC to issue a notice of levy, as specified, if the levy is for a deposit, credits, money, or property in the possession or under the control of a bank or savings and loan association or for an account receivable or other general intangible owed to the judgment debtor by an account debtor. This bill would authorize the LC to provide for a hearing to recover civil penalties against any employer or other person acting on behalf of an employer, as defined, for a violation of those provisions regulating hours and days of work in any order of the Industrial Welfare Commission, as specified. This bill would provide that any employer or other person acting on behalf of an employer, as defined, who violates, or causes to be violated, any provision regulating minimum

wages or hours and days of work in any order of the Industrial Welfare Commission, or violates, or causes to be violated, other related provisions of law is authorized to be held liable as the employer for such violation. This bill, beginning 20 days after a judgment is entered by a court of competent jurisdiction in favor of the LC, or in favor of any employee pursuant to an appeal, would authorize the LC to, with the consent of any employee in whose favor the judgment is entered, collect any outstanding amount of the judgment by mailing a notice of levy upon all persons having in their possession, or who will have in their possession or under their control, any credits, money, or property, belonging to the judgment debtor, or who owe any debt to the judgment debtor at the time they receive the notice of levy. The bill would also require the judgment debtor to be served with a copy of the notice of levy. The bill would require any person who surrenders to the LC any credits, money, or property, or pays the debts owed to the judgment debtor to be discharged from any obligation or liability to the judgment debtor to the extent of the amount paid to the LC as a result of the levy. The bill would make any person noticed with a levy who fails or refuses to surrender any credits, money, or property or pay any debts owed to the judgment debtor liable in his or her own person or estate to the LC in an amount equal to the value of the credits, money, or property or in the amount of the levy, as provided. If a final judgment against an employer arising from the employer's nonpayment of wages for work performed in this state remains unsatisfied after a specified period of time after the time to appeal has expired and no appeal is pending, the bill would prohibit an employer from continuing to conduct business in this state, as specified, unless the employer has obtained a bond from a surety company and has filed a copy of that bond with the LC, as provided. As an alternative to the bond requirement, the bill would authorize the employer to provide the LC with a notarized copy of an accord reached with an individual holding an unsatisfied final judgment. The bill would make any employer conducting business without satisfying the bond requirement subject to a specified civil penalty, as provided. The bill, where an employer is conducting business in violation of the bond requirement, would authorize the LC to issue and serve on such employer a stop order prohibiting the use of employee labor by the employer until the employer complies with the bond requirement provided that the stop order would not compromise or imperil public safety or the life, health, and care of vulnerable individuals. The bill would make the failure of an employer, owner, director, officer, or managing agent of the employer to observe a stop order guilty of a misdemeanor. Subject to required prior notice to the employer, the bill would authorize the LC to create a lien on any real or personal property in California of an employer or a successor employer with respect to real property, as described, that is conducting business without satisfying the bond requirement for the full amount of any wages, interest, and penalties claimed to be owed to an employee, as specified. If a final judgment against an employer arising from the employer's nonpayment of wages remains unsatisfied after the time to appeal has expired and there is no pending appeal and an employer in the long-term care industry, as specified, is found to be conducting business without obtaining a bond or reaching an accord with an individual holding an unsatisfied judgment, this bill would authorize those departments to deny a new license or the renewal of an existing license. The bill would also authorize the LC to notify those departments of such a violation. The bill would require any individual or business entity that contracts for services in the property services or long-term care industries to be jointly and severally liable for any unpaid



wages where the individual or business entity has been provided notice, by any party, of any proceeding or investigation by the LC in which the employer is found liable for those unpaid wages, to the extent the amounts are for services performed under that contract, as provided.

*Status: Chapter 803, Statutes of 2015.*

**SB 599          Mendoza          Employment: Public Service Transit Contracts**

Existing law requires a local government agency to give a 10% preference to any bidder on a service contract to provide public transit services who agrees to retain employees of the prior contractor or subcontractor for a period of not less than 90 days, as specified. This bill would've expanded these provisions to require a state agency to also give a 10% preference to any bidder under these provisions.

*Status: Vetoed by the Governor.*

**SB 654          Jackson          Unlawful Employment Practice: Parental Leave**

This bill enacts the "New Parent Leave Act" to, among other things; require an employer of 20 or more employees to allow eligible employees to take up to six weeks of job-protected parental leave to bond with a new child. Existing law provides that only those who work for an employer of 50 or more are eligible for job protected parental leave.

*Status: Vetoed by the Governor.*

**SB 693          Hueso          Public Contracts: Skilled and Trained Workforce**

This bill consolidates the "skilled and trained workforce" requirements of various provisions of existing law related to alternative construction delivery methods and defines the terms of these requirements.

*Status: Chapter 774, Statutes of 2016.*

**SB 702          McGuire          Employment of Minors: Ag Packing Plants**

Existing law prohibits any employer from employing a minor for more than eight hours in one day or more than 48 hours in one week. Existing law allows the Labor Commissioner, upon receiving written approval from the Lake County Board of Education, to issue exemptions to agricultural packing plants in Lake County so that they can employ minors that are 16 or 17 years of age enrolled in schools located in Lake County, to work for up to ten hours per day, but not more than 60 hours per week, during peak harvest season, when school is not in session. The Labor Commissioner may require inspections of agricultural packing plants prior to issuing the exemption. This bill extends this exemption in current law for five years. This will continue to allow certain minors to work during the peak agricultural season when school is not in session in Lake County.

*Status: Chapter 775, Statutes of 2016.*

**SB 730          Wolk          Railroads: Movement of Freight: Crew Size**

This bill prohibits, on and after February 1, 2016, a train or light engine used in connection with the movement of freight, as specified, from being operated unless it has a crew consisting of at least two individuals. This bill authorizes the Public Utilities Commission to assess civil penalties against any person who willfully violates this provision, as specified.

*Status: Chapter 283, Statutes of 2015.*

**SB 954          Hertzberg          Public Works: Prevailing Wage: Per Diem Wages**

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

*Status: Chapter 231, Statutes of 2016.*

**SB 1001          Mitchell          Employment: Unfair Practices**

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

*Status: Chapter 782, Statutes of 2016.*

**SB 1015          Leyva          Domestic Work Employees: Labor Standards**

This bill deletes the sunset date on the Domestic Worker Bill of Rights, which granted overtime compensation to specified domestic workers. AB 241 (Ammiano), Chapter 374, Statutes of 2013, enacted the Domestic Worker Bills of Rights to grant overtime compensation to specified domestic workers after nine hours in one day and 45 hours in one workweek. AB 241 contained a January 1, 2017 sunset date. This bill proposes to eliminate that sunset date, thereby making those overtime provisions permanent.

*Status: Chapter 315, Statutes of 2016.*

**SB 1063      Hall                      Conditions of Employment: Wage Differential: Race**

This bill expands the prohibitions laid down in the Equal Pay Act related to gender, to include discrimination based on race or ethnicity. Among other provisions it prohibit employers from paying employees a wage rate less than the rate paid to employees of a different race or ethnicity for substantially similar work. It adopts an identical approach to SB 358 (Jackson, Chapter 546, Statutes of 2015) in addressing wage discrimination. It places the responsibility on the employer to prove or demonstrate that a wage differential between employees is not occurring as a result of a worker's race or ethnicity.

*Status: Chapter 866, Statutes of 2016.*

**SB 1166      Jackson                      Unlawful Employment Practice: Parental Leave**

This bill enacts the "New Parent Leave Act" to, among other things; require an employer of 10 or more employees to allow eligible employees to take up to 12 weeks of job-protected parental leave to bond with a new child.

*Status: Dead bill, failed passage in the Assembly Committee on Labor and Employment.*

**SB 1167      Mendoza                      Employment Safety: Indoor Workers: Heat Regulations**

This bill requires the Division of Occupational Safety and Health (DOSH) to propose to the Occupational Safety and Health Standards Board for review and adoption, a standard that minimizes heat-related illness and injury among workers working in indoor places of employment.

*Status: Chapter 839, Statutes of 2016.*

**SB 1227      Lara                              California Conservation Corps**

This bill requires the California Conservation Corps to collaborate with the Department of Veteran Affairs (CalVet) and the Employment Development Department (EDD) to assist any corps member who is a veteran in obtaining permanent employment after participating in the corps. The corps was created in 1976 and employs for one year young adults between the ages of 18 – 25 (veterans up to the age of 29 may participate in some circumstances). The corps offers both residential and nonresidential programs throughout the state and aims to, among other things, provide youth with educational and training opportunities and increase their understanding and appreciation of the environment.

*Status: Chapter 485, Statutes of 2016.*

**SB 1234      De León                      Retirement Savings**

This measure would set up a state-run retirement plan for private sector workers who would be automatically enrolled in a savings plan, if they don't already have a retirement plan through their employer. Employees could opt out of the automatic payroll deductions if they did not want to participate in the program. It would affect approximately seven million currently working Californians.

SB 1234 (De León, Chapter 734, Statutes of 2012) was passed to create SCRSP and to create and empower its Board to perform a feasibility study to determine whether the legal and practical conditions for implementation of SCRSP could be met. The Board approved an approach to the study analysis that included four distinct, but well-coordinated focus areas: program design, market analysis, financial feasibility, and legal feasibility. The report in its entirety can be found on the SCRSP webpage on the Treasurer's website. <http://www.treasurer.ca.gov/scib/report.pdf>  
*Status: Chapter 804, Statutes of 2016.*

## GOVERNOR'S VETOES

### **AB 251      Levine**

I am returning Assembly Bill 251 without my signature.

This measure seeks to codify a definition of the term 'de minimis' to determine what level of public subsidy triggers prevailing wage requirements on an otherwise private project.

Longstanding practice has been to view the subsidy in context of the project and use 2% as a general threshold for determinations. There has been no showing that the current practice is unreasonable.

While I remain a staunch supporter of prevailing wages I am concerned that this measure is too restrictive and may have unintended consequences. Two years ago, I cited the same concerns when I returned a similar bill without my signature. This measure does not adequately address those concerns.

Edmund G. Brown Jr.

### **AB 272      Lackey**

I am returning Assembly Bill 272 without my signature.

This bill would impose, for the first time, liability upon public entities for claims of discrimination brought by volunteer peace officers.

Last year I signed AB 1443, which afforded protection against harassment to all volunteers, including peace officers. That bill makes sense, but I am not convinced that the expanded liability included in this bill does.

Edmund G. Brown Jr.

**AB 465**      **Roger Hernández**

Assembly Bill 465 would outlaw the use of mandatory arbitration agreements as a condition of employment, making California the only state in the country to have this particular prohibition.

I have reviewed in depth the arguments from both sides about the fairness and utility of mandatory arbitration agreements. While most evidence shows that arbitration is quicker and more cost-effective than litigation, there is significant debate about whether arbitration is less fair to employees. The evidence on actual outcomes in arbitration versus litigation is conflicting and unclear, with some studies showing employees receive more in arbitration while other studies show the opposite.

While I am concerned about ensuring fairness in employment disputes, I am not prepared to take the far-reaching step proposed by this bill for a number of reasons.

California courts have addressed the issue of unfairness by insisting that employment arbitration agreements must include numerous protections to be enforceable, including neutrality of the arbitrator, adequate discovery, no limitation on damages or remedies, a written decision that permits some judicial review, and limitations on the costs of arbitration. See, e.g., *Armendariz v. Foundation Health Psychcare Services, Inc.* 24 Cal. 4th 83 (2000). If abuses remain, they should be specified and solved by targeted legislation, not a blanket prohibition.

In addition, a blanket ban on mandatory arbitration agreements is a far-reaching approach that has been consistently struck down in other states as violating the Federal Arbitration Act ("FAA"). Recent decisions by both the California and United States Supreme Courts have found that state policies which unduly impede arbitration are invalid. Indeed, the U.S. Supreme Court is currently considering two more cases arising out of California courts involving preemption of state arbitration policies under the FAA. Before enacting a law as broad as this, and one that will surely result in years of costly litigation and legal uncertainty, I would prefer to see the outcome of those cases.

For these reasons, I am returning AB 465 without my signature.

Sincerely,

Edmund G. Brown Jr.

**AB 561 Campos**

I am returning Assembly Bill 561 without my signature.

This bill requires the Agricultural Labor Relation's Board to process all decision orders within one year upon finding an employer liable for benefits due to unfair labor practices. This bill also requires employers who appeal a Board order to post a bond in the amount of the entire economic value of the order.

While I support the overall goal of this bill, I am concerned that the timeline proposed does not provide for unexpected delays or litigation. In most cases the Board is able to expedite final adjudication of monetary awards within 18 months.

As I stated in my veto message on SB 25 last year, I believe what is needed is a balanced approach to resolving issues concerning the fair and effective enforcement of the Agricultural Labor Relations Act. As such, I am directing the Board to examine the current process and make the necessary internal reforms to provide for more timely orders.

Sincerely,

Edmund G. Brown Jr.

**AB 578 Low**

I am returning Assembly Bill 578 without my signature.

This bill requires employers who apply for variances of existing occupational safety or health standards to formally notice workers, or representatives of workers, who will be impacted.

While this bill is intended to provide an opportunity for affected workers to be notified of variances and raise concerns during a relevant hearing, it is unclear what workers would be affected, and why the current process at the Occupational Safety and Health Standards Board is not sufficient. In fact the board routinely works with stakeholders to provide timely written notice of variance requests and permits those parties to intervene in the proceedings. I believe that process is one that provides adequate opportunity for interested and affected workers to be heard.

Sincerely,

Edmund G. Brown Jr.

**AB 676 Calderon**

I am returning Assembly Bill 676 without my signature.

This bill would prohibit an employer from discriminating against job applicants based on the applicant's status as unemployed.

This bill is substantially similar to the bill I vetoed last year. Nothing has changed. I still believe that the author's approach does not provide a proper or even effective path to get unemployed people back to work.

Sincerely,

Edmund G. Brown Jr.

**AB 883 Low**

I am returning Assembly Bill 883 without my signature.

This bill seeks to vest in the Division of Labor Standards Enforcement an entirely new responsibility: to enforce a prohibition on job advertisements and communications that relate to a person's prior status as a public employee.

I think I understand what the sponsors intend, but the provisions in this bill could limit legitimate efforts of public jurisdictions to manage their workforce.

For this reason, I am unable to sign the bill.

Sincerely,

Edmund G. Brown Jr.



**AB 1017      Campos**

I am returning Assembly Bill 1017 without my signature.

This bill would prohibit an employer from seeking salary information from an applicant for employment.

I agree with the sponsors that we must endeavor to ensure that all workers are paid fairly and do not receive a lower wage because of their gender or any other immutable characteristic that has no bearing on how they will perform in their job. This year, I signed SB 358 that gives California the strongest equal pay law in the nation. This bill, however, broadly prohibits employers from obtaining relevant information with little evidence that this would assure more equitable wages. Let's give SB 358 a chance to work before making further changes.

Sincerely,

Edmund G. Brown Jr.

**AB 1050      Low**

I am returning this bill without my signature.

This bill requires employers seeking a permanent variance from an elevator safety order to notify the union representing elevator workers in the region where the building is located and to also notify the workers who will be performing the work. The bill also requires the Occupational Safety and Health Standards Board to grant party status to affected workers, or their authorized representative, to participate in the variance proceedings.

As I noted last year, the board routinely works with stakeholders to provide timely written notice of a variance request and permits those parties to intervene in the proceedings. I continue to believe that the existing process is one that provides adequate opportunity for interest and affected workers to be heard.

Sincerely,

Edmund G. Brown Jr.

**AB 1354      Dodd**

I am returning Assembly Bill 1354 without my signature.

This bill requires an employer with 100 or more employees to submit the details of their nondiscrimination program to the Department of Fair Employment and Housing and to submit periodic reports of its compliance with that program prior to becoming a contractor with the state.

Currently, the department requires all state contractors to develop and implement a nondiscrimination program meeting certain requirements and also certify that they have done so, under penalty of perjury. Furthermore, the department has existing authority to require a contractor to submit this information prior to contracting with the state, if noncompliance is suspected. In light of these factors, I do not believe this bill is necessary at this time.

Sincerely,

Edmund G. Brown Jr.

**AB 1890      Dodd**

I am returning Assembly Bill 1890 without my signature.

This bill requires a firm with a state contract valued at \$50,000 or more that is required to submit an EEO-I report to the U.S. Equal Employment Opportunity Commission to also annually submit that report, or a nondiscrimination program meeting specified requirements, to the Department of Fair Employment and Housing.

The Office of Compliance Programs within the Department of Fair Employment and Housing already has access to EEO-1 reports submitted to the federal government by California employers. Additionally, and as I stated last year, the Department currently requires all state contractors to develop and implement a nondiscrimination program and has broad authority to investigate, approve, certify, decertify, monitor and enforce the obligation of state contractors not to discriminate. For these reasons, I do not believe this bill is necessary.

Sincerely,

Edmund G. Brown Jr.

**AB 2272      Thurmond**

I am returning Assembly Bill 2272 without my signature.

This bill would require the Occupational Safety and Health Standards Board to adopt a regulation that requires a health facility to remove plume through the use of plume scavenging systems by July 1, 2019.

I agree with the author and sponsor that the potentially hazardous effects of plume merits thorough review. By specifically requiring the adoption of the regulation, however, the bill divests the Standards Board of its discretion to consider a proposed standard for adoption and instead mandates it to do so. This Board was created as an independent body and I believe that independence must be maintained in order for it to effectively perform its mission and protect all California workers.

Sincerely,

Edmund G. Brown Jr.

**SB 406      Jackson**

I am returning Senate Bill 406 without my signature.

This bill expands the circumstances under which a qualified employee may take up to 12 weeks of unpaid leave under the California Family Rights Act.

I support the author's efforts to ensure that eligible workers can take leave to care for a seriously ill family member. The expansion provided in this bill, however, creates a disparity between California's law and the Federal Medical Leave Act and, in certain circumstances, could require employers to provide employees up to 24 weeks of family leave in a 12 month period. I am open to legislation to allow workers to take leave for additional family members that does not create this anomaly.

Sincerely,

Edmund G. Brown Jr.

**SB 599**      **Mendoza**

I am returning Senate Bill 599 without my signature.

This bill expands a local bid preference requirement to the state for public transit services.

By simply expanding this local requirement to the state, this bill would significantly limit the state's current contracting authority to determine who would be eligible for the bid preference and how to calculate it if applied. I do not believe such a broad change is needed at this time.

Sincerely,

Edmund G. Brown Jr.

**SB 654**      **Jackson**

I am returning Senate Bill 654 without my signature.

This bill establishes an unpaid, job protected parental leave requirement that applies to businesses with 20 or more employees and allows workers to take up to 6 weeks of parental leave to bond with a new child.

It goes without saying that allowing new parents to bond with a child is very important and the state has a number of paid and unpaid benefit programs to provide for that leave. I am concerned, however, about the impact of this leave particularly on small businesses and the potential liability that could result. As I understand, an amendment was offered that would allow an employee and employer to pursue mediation prior to a lawsuit being brought. I believe this is a viable option that should be explored by the author.

Sincerely,

Edmund G. Brown Jr.