

# 2009/2010 Legislative Report

## Assembly Bills

### **AB 3 (V. Manuel Perez) Workforce development: Renewable Energy Workforce Readiness Initiative: local workforce investment boards.**

This bill would require the California Workforce Investment Board (CWIB), by July 1, 2010, in consultation with the Green Collar Jobs Council (GCJC), to establish a Renewable Energy Workforce Readiness Initiative to ensure green collar career placement and advancement opportunities within California's renewable energy generation, manufacturing, construction, installation, maintenance, and operation sectors that is targeted towards specified populations. The bill would require that the initiative provide guidance to local workforce investment boards on how to establish comprehensive green collar job assessment, training, and placement programs that reflect the local and regional economies, as prescribed. The bill would require the CWIB, in developing the initiative, to assist the local workforce investment boards in collecting and analyzing specified labor market data, in order to assess accurate local or regional industry cluster workforce development and training needs. The CWIB would be required to submit to the Legislature, by January 1, 2012, a report on the implementation of the initiative. The bill would require that the board only implement the initiative established pursuant to provisions of the bill if the Director of Finance determines that there are sufficient funds made available to the state for expenditure for the initiative pursuant to the American Recovery and Reinvestment Act of 2009, the federal Workforce Investment Act of 1998, or other federal law, or from other non-General Fund sources, and would require that the initiative terminate at such time that the director determines that there are no longer sufficient funds available for the initiative. This bill would revise the membership of the local workforce investment board and revise local workforce investment plan requirements.

*Status: Vetoed by the Governor.*

### **AB 141 (Tran) Employment: working hours.**

This bill would permit an individual nonexempt employee to request an employee-selected flexible work schedule providing for workdays up to 10 hours per day within a 40-hour workweek, and would allow an employer to implement this schedule without any obligation to pay overtime compensation. The bill would require the Division of Labor Standards Enforcement of the Department of Industrial Relations to enforce this provision and adopt regulations.

*Status: Assembly Committee on Labor and Employment, two-year bill.*

### **AB 227 (Cook) Labor standards: consultation unit.**

This bill would establish in the division the Labor Standards Consultation Unit for the purpose of providing consulting services to an employer or employee regarding compliance with labor standards. The bill would authorize the unit to charge a requester a fee for consulting services provided, not to exceed the actual cost to the unit, and to fund its operation from grants obtained from for-profit or not-for-profit nongovernmental entities. The bill would prohibit the division from citing an employer for a violation of any labor standard, order, or regulation discovered as a result

of an employer requesting or accepting services from the unit pursuant to the bill if the employer remedies the violation within 30 days.

*Status: Assembly Committee on Labor and Employment, testimony taken, two-year bill.*

**AB 236 (Swanson) Employment: car washes.**

Existing law, until January 1, 2010, regulates the employment practices of car washes and defines the term "employer" for the purpose of those provisions. This bill would extend that repeal date to January 1, 2014, and would specify that a new motor vehicle dealer or an automotive repair dealer, as those terms are defined, is not an employer for purposes of these regulatory provisions.

*Status: Chapter # 224, Statutes of 2009.*

**AB 271 (Solorio) California YouthBuild Program: funding and designation.**

This bill, in conformity with the federal YouthBuild Transition Act of 2005 that transferred the administration of the YouthBuild program from the Department of Housing and Urban Development to the Department of Labor, would revise those provisions that make reference to the Department of Housing and Urban Development to refer instead to the Department of Labor.

*Status: Chapter # 95, Statutes of 2009.*

**AB 335 (Fuentes) Employment contracts.**

Existing law prohibits certain employment contract provisions as against public policy and declares provisions in certain construction contracts between a contractor and subcontractor for work in this state that purport to require dispute resolution between the parties to be commenced or determined outside of the state to be void and unenforceable. This bill would establish a rebuttable presumption that a choice of law or choice of forum provision in an employment agreement, handbook, or other statement of an employer's policies is unconscionable, violates the public policy of the state, and is void, if the provision would require an employee or job applicant to arbitrate or litigate a claim outside of California that arose from employment or conduct in this state or would deprive the employee or applicant of the protection of California law for such a claim. The bill would require a court to consider specified factors in determining whether a person seeking to enforce the choice of law or choice of forum provision has rebutted the presumption.

*Status: Vetoed by the Governor.*

**AB 380 (De La Torre) California Clean Energy Curriculum and Training Initiative of 2009.**

This bill would require the Secretary of Labor and Workforce Development, in collaboration with the major stakeholders, including appropriate state agencies, building trades unions, education, and the clean energy industry, to create by July 1, 2010, the California Clean Energy Curriculum and Training Initiative of 2009 to establish standardized curriculum for use at schools and provide outreach, assistance, and guidance to schools on creating clean energy training programs. The initiative would be implemented when the Legislature makes an appropriation of moneys for that purpose. This bill also would establish the California Clean Energy Curriculum and Training Initiative Subaccount within the Labor and Workforce Development Fund within the State Treasury. The bill would require that, upon the appropriation of moneys by the Legislature to

implement the initiative, the PUC order electrical corporations that have collected moneys for research, development, and demonstration for allocation by the PUC pursuant to a specified provision, to transfer an amount of those moneys, equivalent to the amount of the appropriation, to the subaccount for purposes of the initiative. By requiring moneys collected by electrical corporations to be transferred to the subaccount, a bill making such an appropriation also would impose a state tax.

*Status: Assembly Appropriations Committee, held under submission.*

**AB 395 (Fuentes) Employment: apprenticeship programs.**

This bill would provide that an awarding body that implements an approved labor compliance program may, upon mutual agreement with the Chief of the Division of Apprenticeship Standards and at his or her discretion, assist the director in the enforcement of prevailing rate wage laws and other requirements that apply to apprenticeships in public works projects through the operation of that approved labor compliance program under terms and conditions prescribed by the Chief of the Division of Apprenticeship Standards. The bill would allow a contractor to appeal the result of a labor compliance program enforcement action related to apprenticeships in public works projects through specified procedures. The bill would provide that, if the involvement of the Chief of the Division of Apprenticeship Standards in a labor compliance program enforcement action is limited to a review of an assessment and the matter is resolved without litigation, the awarding body that has implemented the labor compliance program shall enforce any applicable penalties and shall deposit any penalties and forfeitures collected in its general fund.

*Status: Chapter # 438, Statutes of 2009.*

**AB 402 (Davis) Employment: entertainment work permits.**

Existing law requires the written consent of the Labor Commissioner for the employment of a minor, as specified, in entertainment productions or as an advertising or photographic model or as a participant or player in a sport. Under existing law, a minor is required to obtain an entertainment work permit from the Labor Commissioner in order to be employed in those capacities. This bill would require that a fee be submitted at the time the minor applies for the work permit. The bill would specify that the fee be deposited into the Entertainment Work Permit Fund, which would be created by the bill, and would make this fee revenue available to the Labor Commissioner, upon appropriation, for the costs of issuing the permit, enforcing the provisions regulating a minor's employment in fields requiring issuance of an entertainment work permit, and administering the entertainment work permit program. The bill would provide that the fee to be submitted to the Labor Commissioner pursuant to these provisions would be \$50 until January 1, 2012, and, on and after January 1, 2012, the fee would be set by the Labor Commissioner in an amount, not to exceed \$50, sufficient to pay for the costs set forth above.

*Status: Vetoed by the Governor.*

**AB 482 (Mendoza) Employment: credit reports.**

This bill prohibits an employer, with the exception of certain financial institutions, from obtaining a consumer credit report for employment purposes unless the information is (1) substantially job-related, meaning that the person for whom the report is sought has access to money, other assets, or trade secrets or other confidential information, and (2) the position of the person for whom the report is sought is a position in the Department of Justice, a managerial position, that of a sworn peace officer or other law enforcement position, or a position for which the information contained in the report is required to be disclosed by law or to be obtained by the employer.

*Status: Vetoed by the Governor.*

**AB 485 (Carter) Civil Air Patrol: California Wing: employment leave.**

This bill would require employers employing more than 15 employees to provide not less than 10 days per year of leave, beyond any leave benefits otherwise available to employees, to employees who have been employed by that employer for at least 90 days immediately preceding the commencement of leave, who are volunteer members of the California Wing of the Civil Air Patrol, and who have been duly directed and authorized by a political entity that has the authority to authorize an emergency operational mission of the California Wing of the Civil Air Patrol, to respond to an emergency operational mission of the California Wing of the Civil Air Patrol. The employee would be required to give the employer as much notice as possible of the intended dates upon which the leave would begin and end. The bill would require an employer, upon expiration of the Civil Air Patrol leave taken by an employee, to restore the employee to the position he or she held when the leave began or to a position with equivalent seniority status, employee benefits, pay, and other terms and conditions of employment, unless the employee is not restored because of conditions unrelated to the exercise of the leave rights by the employee. The bill would provide that an employer is not required to grant Civil Air Patrol leave to Civil Air Patrol employees who are required to respond as first responders or disaster service workers for a local, state, or federal agency to the same or a simultaneous emergency operational mission. The bill would authorize an employee to bring a civil action in the superior court of the appropriate county to enforce the Civil Air Patrol leave rights. The court would be authorized to enjoin any act or practice that violates the Civil Air Patrol leave provisions and to order any equitable relief necessary and appropriate to redress the violation or to enforce the Civil Air Patrol leave rights.

*Status: Chapter # 242, Statutes of 2009.*

**AB 514 (De Leon) Employment: lactation accommodation.**

Existing law requires an employer to provide a reasonable amount of break time for lactation purposes and specifies that the break time, if possible, shall run concurrently with any break time already provided to the employee. Under existing law, break time is unpaid if it does not run concurrently with the employee's authorized rest time. Existing law authorizes the Labor Commissioner to issue a citation for the violation of these provisions but exempts the violation from criminal prosecution. This bill, instead, requires an employer to provide a 20-minute paid rest period for lactation purposes during each 4-hour work period, immediately preceding or following the employee's rest period, and would specify that compliance with this requirement does not satisfy

or affect an employer's separate obligation to provide a meal or rest period required by statute, an Industrial Welfare Commission wage order, or a collective bargaining agreement.

*Status: Assembly Appropriations Committee, held under submission.*

**AB 527 (Fuentes) Employee complaints: proceedings: payroll records.**

This bill would provide that if the Labor Commissioner finds that there is a pattern of falsification of the payroll records submitted for any pay period relating to any claim or complaint brought pursuant to the commissioner's authority, all payroll records relating to that claim or complaint must be presumed false.

*Status: Vetoed by Governor.*

**AB 569 (Emmerson) Meal periods: exemptions.**

Existing law prohibits, subject to certain exceptions, an employer from requiring an employee to work more than five hours per day without providing a meal period and, notwithstanding that provision, authorizes the Industrial Welfare Commission to adopt a working condition order permitting a meal period to commence after six hours of work if the order is consistent with the health and welfare of affected employees. This bill would exempt from these provisions employees in a construction occupation, commercial drivers in the transportation industry, and employees in the security services industry employed as security officers and employees of electrical and gas corporations or local publicly owned electric utilities, as defined, if those employees are covered by a valid collective bargaining agreement containing specified terms, including meal period provisions. It would specify that its provisions do not affect the requirements for meal periods for certain other employees or employers.

*Status: Chapter 662, Statutes of 2010.*

**AB 657 (Hernandez) Health professions workforce: master plan.**

This bill would require the office, in collaboration with the California Workforce Investment Board, to establish the Health Professions Workforce Task Force composed of specified members, to assist in the development of a health professions workforce master plan for the state, and would prescribe the functions and duties of the task force in that regard. The bill would require the task force to submit a complete statewide health professions workforce master plan to the office and the Legislature. This bill would also require the task force to seek, and the office to accept, funds from the federal government and private entities for purposes of implementing the bill. The bill would prohibit state funds from being used to implement the bill.

*Status: Vetoed by the Governor.*

**AB 677 (Solario) Public works: prevailing wages.**

This bill would revise the definition of "public works" for these purposes to include the construction, alteration, demolition, installation, and repair work done under private contract when specified conditions are met, including the requirement that the work is performed in connection with the construction or maintenance of renewable energy generation capacity, located on property wholly or partially owned by the school district or community college district, or on public property, specifically to serve a school district or community college district

*Status: Vetoed by the Governor.*

**AB 838 (Swanson) Occupational safety and health.**

The existing California Occupational Safety and Health Act of 1973 was enacted to assure safe and healthful working conditions by authorizing the enforcement of effective standards, assisting and encouraging employers to maintain safe and healthful working conditions, and by providing for research, information, education, training, and enforcement in the field of occupational safety and health. The Occupational Safety and Health Board, an independent entity within the Department of Industrial Relations, has exclusive authority to adopt occupational safety and health standards within the state. This bill would require the Occupational Safety and Health Standards Board, by July 1, 2011, to adopt a standard for controlling the risk of occurrence of heat illness where employees work indoors.

*Status: Vetoed by the Governor.*

**AB 842 (Swanson) Employment.**

Existing law provides that an employer, with certain exceptions, may not order a mass layoff, relocation, or termination, as defined, at a covered establishment without giving 60 days' prior written notice to employees and the Employment Development Department and other local agencies, as well as complying with specified federal guidelines. This bill would increase the layoff notice period from 60 to 90 days. This bill would require employers, when notice is given, to provide employees with information regarding benefits and services available to them once the notice of layoff is given. This bill would also require employers that give notice of a mass layoff, relocation, or termination to provide sufficient meeting space for the provision of rapid response activity, as defined, and to allow providers of rapid response activity services and affected employees to meet for not less than one hour for such services to be provided. Existing law provides that an employer who fails to comply with the layoff notice requirements may be subject to civil penalties, including backpay, and liability under civil actions brought by employees unless the employer can demonstrate specified exemptions. This bill would require the Labor and Workforce Development Agency to maintain a guide of benefits and services that may be available to employees who are the subject of a layoff, including unemployment assistance and COBRA information, and to transmit the guide to an employer who gives notice of an impending layoff, and to post the guide on the agency's Internet Web site. This bill would also require the Labor and Workforce Development Agency to maintain a guide for employers containing development benefits and services, including trade adjustment assistance and tax credits, that could be used to avert mass layoffs or relocations of workforce employees and to transmit the guide to an employer

who gives notice of an impending layoff, and to post the guide on the agency's Internet Web site. This bill would provide that up to 10% of the civil penalties for employers who violate these provisions be used by the Labor and Workforce Development Agency to fund their new duties under this bill.

*Status: Assembly Appropriations Committee, held under submission.*

#### **AB 849 (Swanson) Family and medical leave.**

Existing law, the Moore-Brown-Roberti Family Rights Act, makes it an unlawful employment practice for an employer, as defined, to refuse to grant a request by an eligible employee to take up to 12 workweeks of unpaid protected leave during any 12-month period (1) to bond with a child who was born to, adopted by, or placed for foster care with, the employee, (2) to care for the employee's parent, spouse, or child who has a serious health condition, as defined, or (3) because the employee is suffering from a serious health condition rendering him or her unable to perform the functions of the job. Under the act, "child" means a biological, adopted, foster, or stepchild, a legal ward, or a child of a person standing in loco parentis, who is either under 18 years of age or an adult dependent child. The act defines "parent" to mean the employee's biological, foster, or adoptive parent, stepparent, legal guardian, or other person who stood in loco parentis to the employee when the employee was a child.

This bill would increase the circumstances under which an employee is entitled to protected leave pursuant to the Family Rights Act by (1) eliminating the age and dependency elements from the definition of "child," thereby permitting an employee to take protected leave to care for his or her independent adult child suffering from a serious health condition, (2) expanding the definition of "parent" to include an employee's parent-in-law, and (3) permitting an employee to also take leave to care for a seriously ill grandparent, sibling, grandchild, or domestic partner, as defined.

*Status: Assembly Appropriations Committee, held under submission.*

#### **AB 854 (Arambula) Employment regulation and supervision: unpaid wages.**

This bill would require an applicant for licensure as a farm labor contractor, for registration as a garment manufacturer, for renewal or reinstatement of the license or registration, and for a change in key personnel, to submit a statement as to whether he or she has satisfied all requirements involving unpaid wages in a final court judgment, as defined, a final order issued by the commissioner, or an accord. The bill would subject any person who provides false information on the statement to a civil penalty, as specified. The bill would require the commissioner to deny the application if the statement shows unpaid wages, unless the applicant submits a bond or cash deposit to guarantee payment of the wages or a notarized accord demonstrating satisfaction of the obligation. The bill would require the commissioner to suspend the license or registration of a farm labor contractor or a garment manufacturer who made a false representation in the statement and would make reinstatement contingent on the applicant demonstrating compliance with the unpaid wages requirements or submitting an accord showing satisfaction of that obligation. The bill would require a licensee or registrant to notify the commissioner within 90 days of a final court judgment, final order issued by the Labor Commissioner or an accord imposing requirements relating to unpaid wages and submit with the notice security, as previously described, for the unpaid wages. The bill would prohibit a licensee or registrant from having a person who is a named judgment debtor in a final court order or order issued by the commissioner for unpaid wages serving in a key

personnel capacity and would require the commissioner to suspend the license or registration of a person who violates this prohibition. The bill would require a licensee or registrant to pay to the Labor Commissioner all reasonable costs incurred in adverse license or registration activities, as defined, under its provisions.

*Status: Chapter # 256, Statutes of 2009.*

**AB 857 (Galgiani) Workforce development: one-stop career center systems.**

The federal Workforce Investment Act of 1998 provides for workforce investment activities, including activities in which states may participate. This bill would require the department, on or before July 1, 2010, to provide in-person unemployment benefit assistance in at least one comprehensive state one-stop career center in each workforce area, as prescribed. The bill would require that the unemployment benefit assistance services required to be provided at these one-stop career centers be funded with existing moneys available to the department for the administration of the unemployment compensation program.

*Status: Senate Appropriations Committee, held under submission.*

**AB 943 (Mendoza) Employment: credit reports.**

The federal Fair Credit Reporting Act (FCRA) and the state Consumer Credit Reporting Agencies Act define and regulate consumer credit reports and authorize the use of consumer credit reports for employment purposes, pursuant to specified requirements. The FCRA provides that it does not preempt state law, except as specifically provided or to the extent that state laws are inconsistent with its provisions. Existing federal and state law specify the procedures that an employer is required to follow before requesting a report and if adverse action is taken based on the report. Under existing law, an employer may request a credit report for employment purposes so long as he or she provides written notice of the request to the person for whom the report is sought. Existing law requires that the written notice inform the person for whom the consumer credit report was sought of the source of the report and contain space for the person to request a copy of the report. Existing law further requires an employer, whenever he or she bases an adverse employment decision on information contained in a consumer credit report, to advise the person for whom the report was sought that an adverse action was taken based upon information contained in the report and provide the person with the name and address of the consumer credit agency making the report. This bill would prohibit an employer, with the exception of certain financial institutions, from obtaining a consumer credit report for employment purposes unless the information is (1) substantially job-related, meaning that the position of the person for whom the report is sought has access to money, other assets, or confidential information, and (2) the position of the person for which the person is sought is a position in the state Department of Justice, a managerial position, a position in a city, county, or both city and county, that of a sworn peace officer or other law enforcement position, or a position for which the information contained in the report is required to be disclosed by law or to be obtained by the employer.

*Status: Vetoed by the Governor.*



**AB 946 (Salas) Employment: temporary service employee wages.**

Existing law requires that an employee of a temporary services employer, as defined, be paid weekly. Existing law requires that an employee of a temporary services employer be paid at the end of the workday if the employee is assigned to a client of the temporary service employer, as defined, on a day-to-day basis or if the employee is assigned to a client engaged in a trade dispute. Existing law provides that these pay requirements do not apply to an employee of a temporary service employer who is assigned to a client for over 90 consecutive calendar days unless the temporary service employer pays the employee weekly. A violation of these provisions is punishable as a misdemeanor. This bill would provide that the pay requirements would not apply to an employee of a temporary service employer who is assigned to a client for over 91 consecutive calendar days unless the temporary service employer pays the employee weekly.

*Status: Assembly Labor and Employment, two-year bill.*

**AB 990 (Jones) Safety in employment: ski resorts.**

This bill would require the division to utilize the most current safety standards when inspecting aerial passenger tramways operated at ski resorts. This bill would also require ski resorts to file an annual safety report with the division, post the safety plan at the resort and on the resort's Internet Web site, report to the division on a quarterly basis any serious injuries or fatalities involving patrons at the resort, and standardize safety signage and safety equipment in use at the resort.

*Status: Assembly Appropriations Committee, held under submission.*

**AB 1000 (Ma) Employment: paid sick days.**

This bill would provide that an employee who works in California for 7 or more days in a calendar year is entitled to paid sick days, as defined, which shall be accrued at a rate of no less than one hour for every 30 hours worked. An employee would be entitled to use accrued sick days beginning on the 90th calendar day of employment. The bill would require employers to provide paid sick days, upon the request of the employee, for diagnosis, care, or treatment of health conditions of the employee or an employee's family member, or for leave related to domestic violence or sexual assault. An employer would be prohibited from discriminating or retaliating against an employee who requests paid sick days. The bill would require employers to satisfy specified posting and notice and recordkeeping requirements. The bill would also make conforming changes. This bill would require the Labor Commissioner to administer and enforce these requirements, including the promulgation of regulations, investigation, mitigation, and relief of violations of these requirements. This bill would authorize the Labor Commissioner to impose specified administrative fines for violations and would authorize an aggrieved person, the commissioner, the Attorney General, or an entity a member of which is aggrieved to bring an action to recover specified civil penalties against an offender, as well as attorney's fees, costs, and interest.

The bill would specify that it does not apply to employees covered by a collective bargaining agreement that provides for paid sick days, nor does it lessen any other obligations of the employer to employees.

This bill would further specify that it does not apply to employees in the construction industry covered by a collective bargaining agreement if the agreement expressly waives the requirements of this article in clear and unambiguous terms. However, the bill would specify that it applies to certain public authorities, established to deliver in-home supportive services, except where a collective bargaining agreement provides for an incremental wage increase sufficient to satisfy the bill's requirements for accrual of sick days.

*Status: Assembly Appropriations Committee, held under submission.*

**AB 1001 (Skinner) Employment: familial status protection.**

Existing law, the California Fair Employment and Housing Act, protects and safeguards the right and opportunity of all persons to seek, obtain, and hold employment without discrimination or abridgment on account of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation. This bill would include "familial status" as an additional basis upon which the right to seek, obtain, and hold employment cannot be denied. The bill would, for employment purposes, define "familial status" as having or providing care for a child, domestic partner, grandchild, grandparent, parent, parent-in-law, sibling, or spouse.

*Status: Assembly Appropriations Committee, held under submission.*

**AB 1213 (Skinner) Employment of persons with disabilities: California Governor's Committee on Employment of People with Disabilities.**

Existing law requires the Governor to establish the California Governor's Committee on Employment of People with Disabilities, requires the committee to be established in the Labor and Workforce Development Agency, and specifies the membership of the committee. Existing law requires the committee to, among other things, consult with and advise the Labor and Workforce Development Agency and the California Health and Human Services Agency on all issues related to full inclusion in the workforce of persons with disabilities. This bill would provide that the Superintendent of Public Instruction shall be a member of the committee.

*Status: Vetoed by the Governor.*

**AB 1235 (Hayashi) Meal periods.**

Establishes a specified collective bargaining agreement exemption related to requirements of existing law concerning meal periods for registered security officers. This bill provides that specified provisions of current law related to meal periods do not apply to an employee who is a registered security officer who is employed by a private patrol operator and who is covered by a valid collective bargaining agreement that meets certain conditions and this bill also adds uncodified language to specify that these provisions of the bill shall not be construed to affect the interpretation of the nature or scope of the law related to meal periods other than for employees or employers specifically covered by these provisions.

*Status: Labor provisions subsequently amended out of bill.*

**AB 1288 (Fong) Employment: hiring practices: electronic employment verification.**

The E-Verify Program of the United States Department of Homeland Security, in partnership with the United States Social Security Administration, enables participating employers to use the program, on a voluntary basis, to verify that the employees they hire are authorized to work in the United States. The bill would prohibit the state, or a city, county, city and county, or special district, from requiring an employer other than one of those government entities to use an electronic employment verification system except when required by federal law or as a condition of receiving federal funds.

*Status: Vetoed by the Governor.*

**AB 1319 (Krekorian)**

This bill repeals in its entirety the Labor Code chapter that addresses advance-fee talent services to, among other things, prohibit a person from engaging, as specified, in an advance-fee talent representation service, as defined. This bill would also impose additional disclosure and contract requirements for a talent service, as defined. The bill would make a willful violation of its provisions a misdemeanor and subject to a civil action.

*Status: Chapter # 286, Statutes of 2009.*

**AB 1320 (Fong) Workforce development: Lifelong Learning Accounts Initiative Program.**

This bill would, beginning January 1, 2012, create the Lifelong Learning Accounts Initiative Program, for the purpose of providing grants to employers and employees to be used to establish individual lifelong learning accounts, as defined, for the deposit of funds to be used by those employees and employers for purposes related to lifelong education and training. The bill would require the department to establish a grant program and implement and administer the program, as specified. The bill would require the department to prepare and submit a report to specified legislative fiscal and policy committees, evaluating the effectiveness of the program, as prescribed. The bill would provide that its provisions shall only be implemented if the Director of Finance makes a written determination that there are sufficient funds from sources other than the General Fund available for that purpose.

*Status: Dead bill.*

**AB 1323 (Bonnie Lowenthal) Workforce development: one-stop career centers: job information.**

This bill would require the Employment Development Department to ensure that information is posted or otherwise made available at all state one-stop career centers regarding any jobs that have been or will be created in this state as a result of economic stimulus funding provided to the state pursuant to the American Recovery and Reinvestment Act of 2009, or from the proceeds from the sale of state General Fund infrastructure bonds.

*Status: Assembly Appropriations Committee, held under submission.*

**AB 1394 (Bass) California Workforce Investment Board: Green Collar Jobs Council.**

Existing law establishes the California Workforce Investment Board (CWIB), and requires the board to establish a committee known as the Green Collar Jobs Council (GCJC), comprised of specified members, and requires the GCJC to perform certain functions and duties, including the development of a strategic initiative, relating to the training and development of a skilled workforce to meet the needs of California's emerging green economy. This bill would authorize the CWIB to accept any revenues, moneys, grants, goods, or services from federal and state entities, philanthropic organizations, and other sources, to be used for purposes relating to the administration and implementation of the strategic initiative. The bill would require that all moneys and revenues received pursuant to those provisions be deposited into the Green Collar Jobs Account, which the bill would create in the State Treasury, and, upon appropriation by the Legislature, would authorize the Employment Development Department to expend those moneys and revenues for purposes related to the administration and implementation of the strategic initiative, and for the award of workforce training grants implementing the strategic initiative. The bill would require the GCJC to consult with appropriate state and local agencies to identify opportunities to coordinate the award of grant and green workforce training funds received by the state under the federal American Recovery and Reinvestment Act of 2009 or any other funding sources.

*Status: Vetoed by the Governor.*

**AB 1421 (Swanson) Employment: work hours.**

This bill would provide that time spent in transit on a facility-provided conveyance from a remote employee parking location to and from the place at which an employee's presence is required by the employer shall be considered to be part of a workday if the time spent in transit one-way exceeds 12 minutes, the employee is wearing a uniform or insignia while in transit required by the employer, and the employee is employed at an amusement park, sports venue, or entertainment venue, or by a private service contractor at an airport, as these places of employment are defined by the North American Industry Classification System or its predecessor.

*Status: Dead bill.*

**AB 1559 (Labor and Employment) Workforce development: summer youth job training.**

This bill would require the California Workforce Investment Board in collaboration with local workforce investment boards, to establish the California Youth at Work Program, for the purpose of providing summer job training and work experience opportunities for youth in the state, in accordance with specified requirements. The bill would provide that the program shall only be implemented if the Director of Finance determines that there are sufficient federal funds made available to the state for the program pursuant to the American Recovery and Reinvestment Act of 2009 or other federal law, and would require that the program terminate at such time that the director determines that there are no longer sufficient federal funds available for the program. This bill would require the local board to also facilitate the implementation of summer youth training programs through partnerships and effective collaboration.

*Status: Vetoed by the Governor.*

**AB 1560 (Labor and Employment) Professional employer organizations: regulation.**

This bill would prohibit a person or entity from providing, advertising, or otherwise holding itself out as providing professional employer services in the state, unless that person or entity is registered with the department.

*Status: Assembly Appropriations Committee, held under submission.*

**AB 1561 (Labor and Employment) Occupational safety and health: citation outcome analysis.**

This bill would specify that a place of employment may be deemed dangerous because a particular machine, device, apparatus, or piece of equipment, as well as a condition or practice in a place of employment, constitutes an imminent hazard to employees. This bill would require the division to collaborate with the Occupational Safety and Health Appeals Board of the department to prepare an annual report analyzing the outcomes of citations and other notifications to employers appealed by those employers to the board by employers during the immediately prior calendar year. The division would be required to present the written report, not later than March 1 of each year, to the Speaker of the Assembly and the Chairperson of the Senate Committee on Rules for assignment to the appropriate committee or committees for evaluation.

*Status: Vetoed by the Governor.*

**AB 1562 (Labor and Employment) Employment: garnishment of wages.**

Under existing law, an employer may not terminate an employee because garnishment of an employee's wages has been threatened or an employee's wages have been subjected to garnishment for the payment of one judgment. This bill would prohibit an employer from terminating an employee because garnishment of the employee's wages has been threatened or the employee's wages have been subjected to garnishment for the payment of 5 or fewer judgments at any one time.

*Status: Vetoed by the Governor.*

**AB 1563 (Labor and Employment) Employment: contracts or agreements for labor or services.**

The Division of Labor Standards Enforcement, within the Department of Industrial Relations, is charged with the responsibility of enforcing minimum labor standards under state law. The division's Bureau of Field Enforcement is responsible for investigating and enforcing statutes relating to the above targeted areas. The Economic and Employment Enforcement Coalition, composed of the division and other state and federal agencies, combines and coordinates investigative and enforcement efforts of the various agencies targeting the underground economy. This bill would provide that in an investigation by the Economic and Employment Enforcement Coalition or the Bureau of Field Enforcement involving a labor contractor employing 15 or more workers in any of these 5 targeted areas, if the Division of Labor Standards Enforcement has a reasonable suspicion that a violation of potential financial significance, as defined, has been committed or cited by the division, the division must obtain the relevant terms of the contract from

the contractor and make a written record thereof, as well as a record of whether there is a likelihood that the applicable contract violates those provisions requiring adequate funding. The bill also would require the division to make a record of its reasons supporting its decision to either file or not file a legal action.

*Status: Vetoed by the Governor.*

**AB 1567 (Veterans Affairs) Employment training panel: 3-year plan: training programs: veterans.**

Existing law establishes the Employment Training Panel (ETP) in the Employment Development Department, and prescribes the membership and functions and duties of the ETP with regard to the development and implementation of specified employment training programs. Existing law requires the ETP, among other things, to establish a 3-year plan, as specified, that is required to be updated annually, as provided, and requires that the updated plan be submitted to the Governor and the Legislature not later than January 1 of each year. Existing law requires the ETP, in carrying out its responsibilities related to the plan, to maintain a system to continuously monitor economic and other data required under the plan, and requires that the plan include specified components to identify and address employment training needs in the state. This bill would additionally require that the plan include a statement describing the employment training goals, objectives, and strategies that may be implemented to support target populations in need of employment training, including military veterans.

*Status: Vetoed by the Governor.*

**AB 1591 (Yamada) Wages: prohibited forms of payment.**

The bill would have specified that the use of payroll cards for the payment of wages must be voluntary. Specifically this bill; 1) Prohibits an employer from requiring an employee to receive his or her wages by payroll card unless the employee voluntarily agrees in writing to do so and the employer offers the employee an alternative lawful method to receive his or her wages. 2) Defines "payroll card" as a stored-value card, or other access mechanism, issued to an employee by an employer, or other entity on behalf of the employer, onto which the employer provides the employee access to his or her wages for withdrawal or transfer by the employee.

*Status: Dead bill.*

**AB 1881 (Monning) Recovery of wages: liquidated damages.**

Under existing law, in a court action to recover wages unpaid in violation of the minimum wage set by the Industrial Welfare Commission within the Department of Industrial Relations, the court may award liquidated damages to an employee equal to the amount of wages unlawfully unpaid, plus interest. This bill increases the amount of liquidated damages that an employee is entitled when recovering wages that were unlawfully unpaid. This bill permits an individual to sue his/her employer for liquidated damages in an amount that is twice the amount of the wages unlawfully unpaid when the employer pays that individual less than the minimum wage.

*Status: Vetoed by the Governor.*

**AB 1903 (Fong) California Workforce and Economic Information Program.**

This bill requires that the labor market information system (LMID) within the Employment Development Department (EDD) provide a comprehensive search engine and online database for job seekers.

*Status: Assembly Appropriations, held under submission.*

**AB 1977 (Cook) Department of Industrial Relations: ombudsman.**

This bill authorizes the Director of Director of Industrial Relations to appoint an Ombudsman for Small Business. Charges the Ombudsman for Small Business with "providing information and assistance to small businesses in California that have difficulties in dealing with complex matters" involving the Division of Labor Standards Enforcement (DLSE), the Division of Workers' Compensation, and the Division of Occupational Safety and Health and outlines the duties of the Ombudsman for Small Business.

*Status: Dead bill.*

**AB 2032 (Davis) Employment: entertainment work permits.**

This bill levies a fee to fund the administration of permits for minors in the entertainment industry, as well as to fund enforcement of working conditions for minors in the entertainment industry.

*Status: Vetoed by the Governor.*

**AB 2135 (De La Torre) Home delivery entities: registration.**

Requires the Labor Commissioner to regulate the use of home delivery contractors, as specified.

*Status: Dead bill.*

**AB 2187 (Arambula) Employment: payment of wages.**

This bill increases criminal penalties for an employer who willfully fails to pay wages due to an employee who resigns or is discharged. Specifically, this bill: 1) Makes the aforementioned misdemeanor punishable by a fine of not less than \$1,000 and not more than \$10,000, or by imprisonment in a county jail for not more than six months, or both. 2) Establishes a misdemeanor penalty for an employer or person who willfully fails to pay within 90 days of the date wages are due, all wages due to an employee who has been discharged or who has quit. 3) Provides for an exemption if in cases that are disputed by the employer in a civil action or proceeding before the Labor Commission, as specified. 4) Requires an employer found guilty of the aforementioned misdemeanor to pay, in addition to any criminal fines, restitution to the aggrieved employee in an amount equal to the total amount of unpaid wages.

*Status: Vetoed by the Governor.*

**AB 2242 (Davis) Talent agencies: employment inquiries.**

This bill requires an application for a talent agency license to contain a signature from the applicant attesting they are familiar with the legally permissible inquiries that an employer may make of employees and applicants for employment and allows the Department of Industrial Relations (DIR) to make available on its Internet Website or to provide the most current information regarding legally permissible inquiries by an employer, published by the Department of Fair Employment and Housing (DFEH), available to applicants of talent agency licenses, as specified.

*Status: Dead bill.*

**AB 2340 (Monning) Employee's right to bereavement leave.**

This bill adds to employee rights, the right to inquire about, request, and take up to three days off for bereavement leave. The provisions of the bill would not apply to an employee who is covered by a valid collective bargaining agreement that provides for bereavement leave and other specified working conditions.

*Status: Vetoed by the Governor.*

**AB 2349 (Fong) Workforce development: Youth at Work Program.**

This bill would require the California Workforce Investment Board (CWIB), in collaboration with local workforce investment boards (LWIBs), to establish the California Youth at Work Program (CYWP), for the purposes of providing summer job training, work based learning and work experience opportunities for youth in the state. This bill would specify that a LWIB is to award grants or contracts to eligible providers of youth activities, in a manner consistent with other funding sources and to identify eligible providers in a manner consistent with federal law. This bill states the program shall only be implemented if the Director of Finance determines that there are sufficient federal or state funds made available to the state for expenditure for the program.

*Status: Assembly Appropriations, held under submission.*

**AB 2424 (Niello) Employment: payment of wages.**

This bill extends the time for payment of wages to discharged employees from immediately to within 24 hours, as specified.

*Status: Dead bill.*

**AB 2468 (De Leon) Lactation accommodation: workplace designation.**

This bill allows a business to use the designation Breast-Feeding Mother Friendly Worksite in its promotional materials if the Labor Commissioner determines the employer breast-feeding policy meets specified criteria and requires the Labor Commissioner to post a listing of businesses with this designation on its Web site.

*Status: Vetoed by the Governor.*



**AB 2523 (Eng)**

This bill modifies the education and training requirements for certification as an electrician, to allow a state-approved apprenticeship training program to offer certification training. This bill also modifies continuing education requirements for electricians, as specified.

*Status: Labor provisions subsequently amended out of the bill.*

**AB 2570 (Ma) Unemployment insurance: professional employer organizations.**

This bill would, on and after January 1, 2012, for purposes of all unemployment insurance laws of this state, provide that a professional employer organization (PEO), as defined, shall be deemed to be an employing unit for covered employees under a professional employer agreement, as defined. This bill would require the Employment Development Department (EDD) to administer the provisions of the bill, as specified. This bill would impose various requirements on PEOs and clients, and would also provide for an assessment, fines, and disciplinary actions.

*Status: Senate Appropriations, held under submission.*

**AB 2576 (Nielsen) Garment manufacturing.**

Exempts silk screening and embroidering from provisions of current law regulating garment manufacturing.

*Status: Dead bill.*

**AB 2628 (V. Manuel Perez) Workforce development: Renewable Energy Workforce Readiness Initiative: local workforce investment boards.**

This bill would, among other things, require the California Workforce Investment Board (CWIB), by July 1, 2011, in consultation with the Green Collar Jobs Council (GCJC), to establish a Renewable Energy Workforce Readiness Initiative to ensure green collar career placement and advancement opportunities within California's renewable energy generation, manufacturing, construction, installation, maintenance, and operation sectors that is targeted towards specified populations. The bill would require that the initiative provide guidance to local workforce investment boards on how to establish comprehensive green collar job assessment, training, and placement programs that reflect the local and regional economies, as prescribed. The bill would require the CWIB, in developing the initiative, to assist the local workforce investment boards in collecting and analyzing specified labor market data, in order to assess accurate local or regional industry cluster workforce development and training needs. The CWIB would be required to submit to the Legislature, by January 1, 2013, a report on the implementation of the initiative. The bill would require that the board only implement the initiative established pursuant to provisions of the bill if the Director of Finance determines that there are sufficient funds made available to the state for expenditure for the initiative pursuant to the American Recovery and Reinvestment Act of 2009, the federal Workforce Investment Act of 1998, or other federal law, or from other non-General Fund sources, and would require that the initiative terminate at such time that the director determines that there are no longer sufficient funds available for the initiative.

*Status: Dead bill.*

**AB 2696 (Bass) California Workforce Investment Board: Green Collar Jobs Council.**

This bill authorizes the California Workforce Investment Board (CWIB) to accept any revenues, monies, grants, goods, or services from federal and state entities, philanthropic organizations, and other sources, to be used for purposes relating to the administration and implementation of the strategic initiative. The bill authorizes the Employment Development Department, upon appropriation by the Legislature, to expend those monies and revenues for purposes of the strategic initiative and the award of grants. The bill requires the Green Collar Jobs Council (GCJC) to consult with appropriate state and local agencies to identify opportunities to coordinate the award of grant and green workforce training funds received by the state under the federal American Recovery and Reinvestment Act or any other funding sources. The bill requires the CWIB, on or before April 1, 2011, and annually each April 1 thereafter, to report to the Legislature on the status of GCJC activities, grants awarded, and the development and implementation of a green workforce strategic initiative.

*Status: Chapter # 396, Statutes of 2010.*

**AB 2726 (Bonnie Lowenthal) Employment Development Department: one-stop career centers: training: apprenticeship.**

This bill allows apprenticeship programs approved by the Division of Apprenticeship Standards to be counted as job placement and would direct the state and local Workforce Investment Boards to ensure that programs and services funded by the California Workforce Investment Act work in coordination with apprenticeship programs.

*Status: Vetoed by the Governor.*

**AB 2727 (Bradford) Applicant information: criminal history.**

This bill prohibits an employer from denying an application for employment based on the individual's prior conviction for a criminal offense, unless the employer determines that (a) there is a direct relationship between the criminal offense and the employment sought, or (b) the granting of employment would involve an unreasonable risk to property or the safety of welfare of specific persons or the general public.

*Status: Assembly Appropriations, held under submission.*

**AB 2770 (Monning) Employee wages and working hours: violators.**

This bill establishes a pilot program, among other things, to investigate employment and payment practices within the swimming pool and spa construction industries underground economy.

*Status: Vetoed by the Governor.*

**AB 2771 (Labor and Employment) Wage statement: violations.**

This bill is a code clean up bill that amends Labor Code section 226.6 to delete reference to a repealed statute, Labor Code section 226.2.

*Status: Senate Rules, held.*

**AB 2772 (Labor and Employment) Labor Commissioner: appeals.**

This bill clarifies that an employer wishing to appeal a Labor Commissioner decision with the superior court must first post a bond in the amount of the judgment rendered in the administrative hearing.

*Status: Chapter # 102, Statutes of 2010.*

**AB 2774 (Swanson) Occupational safety and health.**

This bill establishes a rebuttable presumption as to when an employer commits a serious violation of the provision requiring an employer to provide employees with a safe workplace, as specified, and establishes new procedures and standards for an investigation and the determination by the division of a serious violation by an employer which causes harm or exposes an employee to the risk of harm.

*Status: Chapter # 692, Statutes of 2010.*

**AJR 2 (Caballero) Mexican braceros: settlement.**

This measure would urge the United States government to urge the Mexican government to extend the deadline for Mexican laborers, known as braceros, who worked in the United States beginning in 1942 as part of a labor importation program initiated by the United States to alleviate a labor shortage during World War II, to submit a claim to recover unpaid wages from a specified settlement fund. It would also urge the United States government to urge the Mexican government to accept a variety of documents as proof of a valid claim.

*Status: Resolution Chapter # 51 of 2009.*

**AJR 45 (Fong) Lifelong Learning Accounts.**

This resolution urges the federal government to create and fund programs that encourage lifelong learning, such as Lifelong Learning Accounts, within California.

*Status: Resolution Chapter # 166 of 2010.*

**ACR 163 (V. Manuel Perez) Domestic workers rights.**

This resolution encourages greater protections in federal and state law for domestic workers.

*Status: Resolution Chapter # 119 of 2010.*

## Senate Bills

### **SB 45 (Padilla) Public works: payment of prevailing wage: violations.**

This bill would provide that a contractor or subcontractor performing a public works project who is found by the Labor Commissioner to be in violation of the public works law, with intent to defraud, for the first time, is ineligible to bid on or be awarded a contract for a public works project for specified periods of time, with a prescribed exception related to apprenticeship requirements, but would provide that for a second violation of the public works law, with intent to defraud, the contractor or subcontractor shall be ineligible to bid on or be awarded a public works contract.

*Status: Vetoed by the Governor.*

### **SB 404 (Benoit) Employment: information for employees.**

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. This bill would clarify that the employer may provide the wage information either on a detachable part of the payment made to the employee or on a separate page accompanying the payment of wages.

*Status: Dead bill.*

### **SB 410 (Ducheny) California Workforce Investment Act: federal funding.**

The federal Workforce Investment Act of 1998 provides for workforce investment activities, including activities in which states may participate. This bill would declare that it is the intent of the Legislature that other intensive services, such as out-of-area job search assistance, literacy activities related to workforce readiness, relocation assistance, internships, and work experience programs also be provided at those one-stop career centers to individuals who have met specified requirements, based on an assessment or individual employment plan. The bill would prescribe eligibility criteria for recipients of financial assistance in the form of needs-related payments, as described, and would require the one-stop career centers, given sufficient resources, to take various actions with respect to the coordination and delivery of supportive services, as described, to individuals who are enrolled in job training programs. The bill also would require local boards to develop a policy on supportive services, as specified. This bill would require the California Workforce Investment Board (CWIB) to develop policies, funding recommendations, and strategies that will maximize funding across all workforce programs for developing and enhancing the skills of Californians in order to meet the needs of California's businesses, as specified. The bill would require funding available through the federal American Recovery and Reinvestment Act of 2009 to be for increasing training services, and would require training priorities to be consistent with those identified in that act. This bill would incorporate additional changes in Section 14230 of the Unemployment Insurance Code made by AB 3 that would become operative if both bills are enacted and this bill is enacted after AB 3.

*Status: Vetoed by the Governor.*

**SB 477 (Florez) Employment: heat illness prevention.**

This bill codifies and significantly expands existing regulatory requirements related to the prevention of heat illness of employees

*Status: Assembly Appropriations, held under submission.*

**SB 478 (Wolk) Employment safety: manlifts.**

This bill would require that an elevator company disclose its status as a certified qualified conveyance company prior to bidding on a project or contracting for services. The bill would authorize the owner or operator of agricultural production, processing, and handling facilities, as defined, to designate a competent employee who is not required to be a certified competent conveyance mechanic to maintain and test, as specified, the manlifts used at the facilities.

*Status: Chapter # 196, Statutes of 2009.*

**SB 789 (Steinberg) Labor representatives: elections.**

This bill would permit agricultural employees, as an alternative procedure, to select their labor representatives by submitting a petition to the board accompanied by representation cards signed by a majority of the bargaining unit. The board would be required to conduct an immediate investigation to determine whether to certify the labor organization as the exclusive bargaining representative for the particular agricultural employees. Within 5 days after receiving a petition, the board would be required to make a nonappealable administrative decision. If the board determined that the representation cards meet specified criteria, then the labor organization would be certified as the exclusive bargaining representative. If the board determined that the representation cards were deficient, it would notify the labor organization of the deficiency and grant the labor organization 30 days to submit additional cards. This bill would extend the existing prohibitions and penalties to employers who engage in unfair labor practices with regard to a majority signup election. This bill would require that the board keep the information on the representation cards confidential.

*Status: Vetoed by the Governor.*

**SB 903 (Wright) Penalty collections: limitations.**

This bill extends the time period for collection actions that can be brought by the Division of Labor Standards Enforcement from one year to three years.

*Status: Vetoed by the Governor.*

**SB 956 (Romero) Workforce development: California School Paraprofessional Teacher Training Program.**

This bill requires five-million dollars appropriated from federal Workforce Investment Act funds to be made available to local education agencies to train teachers who have been laid off or who are teaching out of field to become qualified to teach science, math, or industrial and technology education.

*Status: Dead bill.*

**SB 1121 (Florez) Overtime wages: agricultural workers.**

This bill deletes the overtime pay and meal period exemptions for agricultural workers.

*Status: Vetoed by the Governor.*

**SB 1230 (DeSaulnier) Employment: posting requirements.**

This bill requires employers to post information related to human trafficking, including the phone number to two toll-free anti-human trafficking hotlines that provide services in support of the elimination of human trafficking.

*Status: Vetoed by the Governor.*

**SB 1231 (Corbett) Public contracts: state agency: sweatshop labor: slave and sweat free code of conduct.**

This bill makes various substantive and clarifying changes to existing provisions of the Public Contract Code (Section 6108) related to "sweatfree" procurement policy and code of conduct.

*Status: Vetoed by the Governor.*

**SB 1304 (DeSaulnier) Employment: leave and benefits.**

This bill (1) requires private employers to permit employees to take paid leaves of absence, similar to those currently available to public employees, for the purposes of organ and bone marrow donations, and (2) prohibits retaliation against employees who take this leave, and would authorize an employee to bring a civil action to enforce the provisions of this bill.

*Status: Chapter # 646, Statutes of 2010.*

**SB 1370 (Ducheny) Employment contract requirements.**

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

*Status: Vetoed by the Governor.*

**SB 1397 (Corbett) Apprenticeship oversight.**

This bill streamlines auditing requirements and limits duplicative organizational membership on the California Apprenticeship Council.

*Status: Vetoed by the Governor.*

**SB 1474 (Steinberg) Labor representatives: elections.**

This bill requires the Agricultural Labor Relations Board (ALRB) to certify a labor organization for purposes of collective bargaining if a representation election has been set aside for employer misconduct, as specified.

*Status: Vetoed by the Governor.*