

NEW STATE LEGISLATION FOR 2010

Assembly Bill No. 236, Car Wash Employment Regulation:

This bill extends the repeal date to January 1, 2014 for the law that regulates employment practices of car washes and defines the term “employer” under the law to exclude charitable and youth-type organizations, licensed vehicle dealers or new motor vehicle dealers.

Assembly Bill No. 287, Employment for the Developmentally Disabled:

This bill requires the State Council on Development Disabilities to form a standing Employment First Committee. The Committee’s purpose is to enhance employment opportunities for developmentally disabled individuals and encourage such individuals to receive counseling on school-to-work opportunities commencing at 14 years of age.

Assembly Bill No. 395, Approved Labor Compliance Programs:

Existing law exempts certain public works projects from the prevailing wage requirements if the awarding body contracting for public work initiates and enforces a labor compliance program that meets specific statutory and regulatory requirements and ensures compliance with prevailing rate wage laws. Existing law requires that all labor compliance programs obtain the approval of the Director of Industrial Relations.

This legislation provides 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 of Industrial Relations in the enforcement of prevailing rate wage laws and other requirements that apply to apprenticeships and 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 legislation also allows a contractor to appeal the result of a labor compliance program enforcement action related to apprenticeships and public works projects through specified procedures.

California code sections impacted: Lab. Code §3072 (amended).

Assembly Bill No. 399, PERS and STRS Credit for Furloughs:

This bill deals with public employee benefits. It requires members of PERS who are permanently separated from all service covered by PERS, who are not in specified public service and 70 years of age, be provided with an option to withdraw contributions to PERS, or if vested, an option to either apply for service retirement or withdraw contributions. The failure to apply for service retirement or make an election to withdraw contributions within 90 days will be considered an election to withdraw contributions.

With respect to members of STRS (State Teachers' Retirement System), the bill requires that the calculations of a retirement allowance for an employee subject to mandatory furloughs include earnings, calculations, and compensation earnable that would have been reported had the employee not been subject to mandatory furloughs. The state must pay the cost of any increased benefit.

With respect to members of PERS, the bill requires, for retirement purposes, that credit for service and compensation earnable for employees that are subject to mandatory furloughs be based on the amount that would have been credited had the employee not been subject to mandatory furloughs.

With respect to the Judges' Retirement System and the Judges' Retirement System II, the bill requires that calculations of retirement benefits and Extended Service Incentive Program benefits for any judge who voluntarily waives salary include salary and contributions that would have been paid had the judge not done so. The state must pay the cost of any increased benefits.

Assembly Bill No. 506, State Teachers' Retirement—Post-Retirement Earnings:

This bill applies to retirees of the California State Teachers' Retirement System (CalSTRS) and:

- 1) Prohibits retirees under age 60 from working in any CalSTRS-related service for the first six calendar months after they retire. After this break-in-service, they would be able to return to work under the existing earnings limit;
- 2) Extends the sunset dates of the existing CalSTRS post-retirement earnings limit exemptions by two years, to June 30, 2012, and moves forward the eligibility date for some exemptions to encompass those members retired for service as of January 1, 2009; and
- 3) Clarifies that the vacant administrative position emergency exemption cannot be applied to a retiree whose retirement is the basis for the vacancy.

California code sections impacted: Ed. Code §§ 24214, 24216, 24216.5 & 24216.6 (amended); Ed. Code § 24214.5 (new).

Assembly Bill No. 544, Tribal Language Credential:

This bill requires the Commission on Teacher Credentialing to issue an American Indian languages credential to candidates who have demonstrated fluency in a tribal language and met other requirements.

Assembly Bill No. 854, Employment Regulation and Supervision—Unpaid Wages:

This bill subjects farm labor contractors and garment manufacturers to certain requirements related to the application and renewal of their licenses and/or registration. Specifically, this bill:

- 1) Requires farm labor contractors and garment manufacturers to submit a statement as to whether he or she has satisfied all requirements involving unpaid wages in a final court judgment/final order issued by the commissioner;
- 2) Requires any person who provides false information on the statement to be subject to a civil penalty;
- 3) Requires the commissioner to deny the application if the statement shows unpaid wages (unless the applicant submits bond/cash deposit to guarantee payment);
- 4) Requires the commissioner to suspend the license/registration of a farm labor contractor or a garment manufacturer who made a false representation in the statement; and
- 5) Requires licensee or registrant to notify the commissioner within 90 days of a final judgment/order relating to unpaid wages and submit security for the unpaid wages with the notice.

California code sections impacted: Lab. Code § 273 (new).

Assembly Bill No. 1025, School—Employees and Volunteers:

Commencing on July 1, 2010, prior to assuming a paid or volunteer position to supervise, direct, or coach a pupil activity program sponsored by a school district, individuals must obtain from the Commission on Teacher Credentialing an “Activity Supervisor Clearance Certificate.” The Commission will verify the candidate’s personal identification and run a criminal history search. The Certificate will be valid for five years and be renewed. Volunteer supervisors for breakfast, lunch or other nutritional periods and non-teaching volunteer aides under the immediate supervision and direction of certificated personnel are not required to obtain the Certificate.

Senate Bill No. 11, San Bernardino County Health Benefit Fund:

This bill authorizes the board of retirement of San Bernardino County to establish a fund for collective investment of assets for the exclusive purpose of providing health benefits to employees of any local public agency. The fund is to be a separate legal entity from the retirement system and governed by a board composed of members of the board of retirement. The board will be called the post-employment health benefits fund board.

Senate Bill No. 37, State Employees’ Deductions:

Currently state agencies are required to provide state employees with an itemized statement in writing or electronically showing all deductions made from the employees’ wages or salary (at the time of payment). This bill requires the itemized statement of deductions to be provided electronically to employees who are paid through direct deposit unless an employee requests, in writing, to receive a paper version of the statement.

Senate Bill No. 72, State Employees Payroll—Health Care:

This bill applies to state employees and takes effect January 1, 2010. Specifically, the bill:

- 1) Requires that payments to employees made through the Uniform State Payroll System (“USP”) for a master payroll paid on June 20 of each year shall be dated on July 1;
- 2) Requires that payments to employees made through the USP with an issue date each year of July 1 shall be considered payable incurred in the fiscal year in which the payment is issue dated; and
- 3) Makes technical changes clarifying amendments to the provision authorizing the Public Employees’ Retirement System to use reserves generated by one or more self-funded benefit plans to reduce premiums charged.

California code sections impacted: Gov. Code §§ 12472.5, 13302 & 22864.1 (repealed & replaced).

Senate Bill No. 313, Workers’ Compensation—Penalty Assessments:

Existing law requires that the Director of Industrial Relations issue and serve on any employer who has failed to obtain workers’ compensation insurance a stop order prohibiting the use of employee labor. At that time, the Director can also serve a penalty equal to the sum of \$1,000 per employee employed at the time the order is issued and served. This bill increases the amount of the penalty to \$1,500 per employee. Existing law also allows the Director in lieu of this penalty, to assess to any employer who has been uninsured for a period in excess of one week during the calendar year preceding the Director’s determination, the greater of: (1) twice the amount the employer would have paid in workers’ compensation premiums during the period the employer was uninsured; or (2) the sum of \$1,000 per employee employed during the period the employer was uninsured. This bill increases the penalty assessment to \$1,500 per employee employed during the period the employer was uninsured. The bill also requires that if the employer is currently insured or becomes insured during the period during which the penalty is being determined, the amount an employer would have paid in workers’ compensation premiums shall be calculated by prorating the current premium for the number of weeks the employer was uninsured within the three-year period immediately prior to the date the penalty assessment is issued.

Senate Bill No. 367, Unruh Civil Rights Act Clarification Regarding Discrimination:

The Unruh Act provides that all persons within the jurisdiction of the State of California are free and equal, and no matter what their sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation, are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind. This bill provides that any discount or other benefit offered to, or conferred on, a consumer or prospective consumer by a business

because the consumer or prospective consumer has suffered the loss or reduction of employment or reduction in wages would not be considered discrimination in violation of the Act.

This bill went into effect immediately as an urgency statute on November 2, 2009. It was provided in recognition of the vast number of unemployed individuals the state currently has in an effort to avoid having businesses be penalized when they provide discounts to those individuals.

Senate Bill No. 519, PERS Spousal Benefits:

PERS provides pre-retirement death benefits for the surviving spouse and/or children of state members and school members not covered by social security. The eligibility age for certain spousal benefits was due to increase from 60 to 62 years and the amount of some financial benefits was due to decrease on January 1, 2010. Senate Bill No. 519 deleted the provision changing the law in 2010, leaving the current eligibility age and benefits levels in effect.

Senate Bill No. 538, Retirement Exemption for Los Angeles County Safety Members:

This bill requires that Los Angeles County provide safety members covered by the County Employees Retirement Law who have reached retirement age while on disability leave the opportunity to receive a physician certification exempting them from the retirement provisions upon their return from leave.

Senate Bill No. 634:

This bill provides technical housekeeping changes in the California State Teachers Retirement System (STRS) law to facilitate administration of the system. The significant changes to the STRS law include the following:

- 1) Ed. Code § 22115 clarifies that changes to a teacher's base hours apply to the entire class of employees of community colleges.
- 2) Ed. Code § 22515 clarifies that the election of membership in the STRS Defined Benefit Program by substitute teachers and part-time employees is irrevocable and remains in effect until the member terminates employment.
- 3) Ed. Code § 22661 provides that registered domestic partners are prohibited from rolling over the balance of their segregated accounts to bring CalSTRS back into compliance with federal law.
- 4) Ed. Code § 22713 corrects a grammatical error to clarify that STRS employers (school or community college districts) may offer a reduced workload program under which a member works part time but receives service credit as though the member was working full time. Under this program, the STRS member and employer make contributions based on creditable compensation the member would have received if the member were working full time.

- 5) Ed. Code §§ 22801, 22802, 22803, 22805, 22820, 22821, 22822, 22823, and 22826 clarify the terminology and language for the purchase of additional service credits.
- 6) Ed. Code §§ 23200 and 23201 clarify previous language regarding the redeposit of contributions by a person who requests a refund of their accumulated contributions after termination of employment, when the same person later again becomes a STRS member.
- 7) Ed. Code § 23856 allows STRS to pay a survivor benefit allowance to a surviving spouse or to eligible dependent children of a deceased member if there is no surviving spouse.
- 8) Ed. Code §§ 24001 and 24101 clarify that a member applying for disability must submit a written application on a form provided by CalSTRS.
- 9) Ed. Code Secs. 24216, 24216.5 and 24216.6 require the employer to provide STRS with appropriate documentation by the end of the school year, regarding the hiring of retired members to meet specific educational needs.
- 10) Ed. Code § 24301 clarifies the exceptions to existing STRS law which states that, after a specified period, a member may not revoke his or her election to receive an actuarially modified disability allowance in order to provide a survivor benefit to his or her chosen beneficiary if the disabled STRS member dies first.
- 11) Ed. Code § 24309 specifies that if a member changes or cancels a pre-retirement election of an option for an actuarially modified retirement allowance payable, the change or cancellation must be received by STRS thirty (30) days after the member's signature.
- 12) Ed. Code §§ 25008.5, 25010, 25011.1, 25017 and 25020 clarify the requirement that a member must submit a completed benefit application—which currently includes DBS program forms—in order to receive a retirement or disability benefit.

Senate Bill No. 751, Teaching Credentials and Preparatory Courses for Teacher Subject Matter Examinations:

This bill has two aspects. The first authorizes the Commission on Teacher Credentialing to issue teaching credentials to teachers prepared in a country other than the United States if they earned a valid corresponding teaching credential in another state and meet other requirements. The second authorizes local educational entities to contract out for services to provide examination preparatory courses for teachers taking subject matter examinations.

Senate Bill No. 752, County Employees' Retirement—Orange County:

This bill immediately implemented a recently-negotiated bargaining agreement between Orange County and the Orange County Employees' Association (OCEA). Specifically, this bill:

- 1) Allows certain new employees to voluntarily opt-in to a new hybrid retirement plan for new and general members of the retirement system. (The optional

- hybrid plan includes a 1.62% at age 65 Defined Benefit Plan as well as a Defined Contribution Plan); and
- 2) Allows current employees the option of staying in the 2.7% at age 55 plan or electing the new hybrid plan.

California code sections impacted: Gov. Code § 31678.31 (new).