

California legislature considers a dozen new employment laws

Like a pride of lions flashing teeth and fangs, the California legislature is on the hunt in 2018. As has become an annual spring ritual, Sacramento politicians have once again proposed a progressive labor agenda.

These significant employment law bills are pending in Sacramento. It remains to be seen which of these bills will end up on Gov. Jerry Brown's desk.

Medical marijuana user rights: Assembly Bill 2069 proposes to amend the California Fair Employment and Housing Act to extend anti-discrimination protection to medical marijuana users. Employers would be prohibited from discriminating against qualified medical marijuana users on the basis of their qualified status or because of a positive drug test for marijuana.

The bill would not prohibit an employer from refusing to hire an individual or discharging an employee using medical marijuana if hiring or failing to discharge the employee would cause the employer to "lose a monetary or licensing-related benefit under federal law." It would not prevent terminating an employee who is caught on the job under the influence of marijuana.

Female corporate board quotas: Senate Bill 826 would require publicly traded California corporations to appoint a certain number of women to their boards of directors. By the end of 2019, corporations with principal executive offices in the state would have to have at least one woman on their boards. By 2021, that number would increase to two or three, depending on the board's size.

Annual pay equity data reporting: S.B.1284 would require California corporations to annually report pay data to the state labor agency. Beginning in September 2019, employers with 100 or more employees would have to submit annual pay data for 10 job categories, including executive officials and managers, administrative support workers, sales workers, technicians, laborers and others. The pay data would also include race, ethnicity and sex.

More paid sick leave: A.B.2841 would increase the minimum amount of sick pay an employer must provide under the California paid sick leave law.

For employers that provide lump sum leave, the minimum would increase to 40 hours, up from the current 24. For employers that provide sick pay on an accrual basis, the accrual cap would increase to 80 hours, up from the current 48.

Expanded sex harassment prevention training: S.B.1343 would amend the current California sexual harassment prevention training requirement so most companies would be required to provide training to all employees.

Currently, only employers with 50 or more employees must provide the training, and only supervisors are required to receive it.

Sexual harassment record retention: A.B.1867 would require any employer with 50 or more employees to maintain records of employee complaints of sexual harassment for 10 years from the date of filing.

Sexual harassment leave: A.B.2366 would amend California Labor Code sections 230 and 230.1, which give protected status to victims of domestic violence, sexual assault or stalking. Under current law, an employer must accommodate a victim's need for leaves of absences for specified purposes and may not discriminate or retaliate against employees based on their use of such leave.

The bill would extend the same protections to victims of sexual harassment, as well as employees who are immediate family members of victims of domestic violence, sexual assault, stalking or sexual harassment.

No confidential settlements: S.B.820 would prohibit confidential settlement agreements relating to sexual harassment claims.

Payday timing penalties: A.B.2613 would amend California Labor Code section 204 so that the late payment of wages would result in a \$100 per day per employee penalty for up to seven days. Willful or repeated violations would result in a \$200 per day penalty.

Extended time to file wage claims: A.B.2946 would extend the time to file a charge of discrimination with the California Division of Labor Standards Enforcement to three years, up from the current six months.

More time to file charges: A.B.1870 would extend the time to file a discrimination or harassment charge with the California Department of Fair Employment and Housing to three years, from the current limit of one year.

Lactation accommodation: S.B.937 would amend existing California law pertaining to an employer's obligation to accommodate employees who want to express breast milk at work. New commercial buildings of at least 15,000 square feet would be required to include lactation space with an electrical outlet, a sink and a door sign.

Employers would also be required to provide a sink and a refrigerator nearby.

Designating a multipurpose room for lactation purposes would be permissible provided that its use as a lactation space takes priority over other uses.

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