

## [Updates](#)

October 21, 2024

### 2024 California Labor, Employment, and Independent Contractor Legislative Update



With the 2024 California legislative year closed, it is once again time to summarize the new legislation that will affect businesses operating within California and highlight relevant action items related to this legislation.

Below are the key labor, employment, and independent contractor topics from the 2024 legislative session. California businesses with questions about these updates should contact experienced counsel.

#### **Employment—Private Attorneys General Act (PAGA)**

Changes to the PAGA: [AB 2288](#) and [SB 92](#)

**Effective date:** June 19, 2024

**Summary:** As described [here](#), on July 1, 2024, Governor Gavin Newsom signed [Assembly Bill 2288](#) and [Senate Bill 92](#) into law, enacting reforms to PAGA and amending Labor Code sections 2699 and 2699.3. PAGA allows individual current and former employees to bring actions for Labor Code violations on behalf of themselves and other current and former employees. The reforms, effective June 19, 2024, include, among other things, changes to standing requirements, limits on the scope of claims at trial, and revisions to penalty structures. The reform also introduces expanded cure provisions, penalty reductions for isolated violations, and new rules on injunctive relief. The California Labor & Workforce Development Agency has published [FAQs on PAGA](#) to provide information regarding the amendments.

**Action item:** Employers should stay proactive and ensure compliance with relevant wage and hour requirements to mitigate risks and take advantage of available defenses under the new legislation.

Labor Code PAGA of 2004—Exemption of Construction Industry Employees: [AB 1034](#)

**Effective date:** Extends existing law through January 1, 2038.

**Summary:** Preexisting law contained an exemption for employees in the construction industry with respect to work performed under a valid collective bargaining agreement that provided certain terms. The exemption had an effective date through January 1, 2028, and AB 1034 extends this exemption through January 1, 2038.

**Action item:** None, as this extends current law.

## **Employment—Minimum Wage**

**State Minimum Wage Increases to at Least \$16.50**

**Effective date:** January 1, 2025

**Summary:** Under existing law, the California director of finance must certify each year whether the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) necessitates an increase to the state minimum wage. This year, the director of finance has [certified](#) that the minimum wage shall increase by 3.18% from \$16.00 to \$16.50 per hour on January 1, 2025. In addition, the salary basis minimum for exempt employees will increase from \$66,560 to \$68,640.

**Action item:** Employers should prepare to increase minimum wage for nonexempt hourly workers, as well as salaries for exempt employees. Employers should also be aware of and comply with any local wage requirements or any industry-specific minimum wages, such as those for fast food employees and healthcare workers.

**Proposition To Raise Minimum Wage on November 2024 Ballot:** [Proposition 32](#)

**Effective date:** Monitor November election

**Summary:** As initially described [here](#), Proposition 32, if approved by voters in November, will increase the minimum wage for all employers to \$18 per hour by 2026, and beginning in 2027, the minimum wage will adjust annually for inflation. Importantly, if passed, employers with 26 or more employees would have a minimum wage of \$17 per hour for the remainder of 2024. The initiative does not affect local minimum wage requirements or current laws that establish a higher minimum wage in certain industries.

**Action item:** Employers should monitor the November election results and comply with any applicable minimum wage requirements.

**Healthcare Workers Minimum Wage: SB 525 and SB 159**

**Effective date:** October 16, 2024

**Summary:** As described [here](#), earlier this year, Governor Newsom signed into law SB 626, which provides a tiered approach for minimum wages for the state's healthcare workers. The effective date had been delayed from the original one of June 1, 2024. The new law will now become [effective](#) October 16, 2024. The California Department of Industrial Relations provides additional information on its [Health Care Worker Minimum Wage Frequently Asked Questions](#) webpage.

**Action item:** California healthcare employers should be prepared to implement these new minimum wage and salary requirements for healthcare employees.

## **Employment—Discrimination**

**Discrimination Based on Combination of Characteristics and Hairstyles:** [AB 1815](#) and [SB 1137](#)

**Effective date:** January 1, 2025

**Summary:** SB 1137 and AB 1815 clarify that California’s Fair Employment and Housing Act (FEHA) prohibits discrimination based on a combination of protected characteristics.

### ***SB 1137***

SB 1137 clarifies that, in addition to previously recognized protections, the Unruh Civil Rights Act, FEHA, and the Education Code also prohibit discrimination based on a combination of two or more protected characteristics or classes. The FEHA now proscribes its purpose to eliminate discriminatory practices “because of the combination of two or more protected bases,” or a perception that a person has any combination of protected characteristics.

The bill states that the amendment is declaratory of existing law, specifically the decision by the U.S. Court of Appeals for the Ninth Circuit in *Lam v. University of Hawai’i*, 40 F.3d 1551 (9th Cir. 1994), which held that when an individual asserts multiple bases for discrimination or harassment, it may be necessary to consider the combination of the bases rather than each protected basis alone. The legislature explained, “where two or more bases for discrimination or harassment exist, they cannot be neatly reduced to distinct components.”

### ***AB 1815***

Similarly, AB 1815 clarifies that the prohibition against race discrimination in employment includes any traits associated with race—even if those traits are not “historically” so associated. As described [here](#), in 2019, California passed the Creating a Respectful and Open Workplace for Natural Hair (CROWN) Act, becoming the first state to ban employment discrimination based on hairstyles associated with race. AB 1815 removes the word “historically” from the definition of race in this context.

**Action items:** Although both SB 1137 and AB 1815 are declaratory of existing law, employers should review employee policies to ensure they are consistent with the clarified scope of these protections.

**Unlawful Discrimination and Paid Sick Days for Victims of Violence:** [AB 2499](#)

**Effective date:** January 1, 2025

**Summary:** California currently addresses leave and protects from discrimination or retaliation employees who are victims of crime or abuse, as well as employees who need to take time off for specific reasons, such as serving on a jury or appearing in court as a witness. AB 2499 enhances these existing protections via new Government Code section 12945.8 (repealing Sections 230 and 230.1 of the Labor Code). The new Government Code provisions set forth in Section 12945.8, among other things, expand protections (to employees who work for employers with 25 or more employees) to include “qualifying act[s] of violence,” such as domestic violence, sexual assault, stalking, brandishing a weapon, and other acts, regardless of whether the perpetrator is arrested, prosecuted, or convicted.

AB 2499 removes the previous threshold of 25 or more employees for certain protections, meaning that all California employers will be required to comply with the leave, nonretaliation, and nondiscrimination provisions. However, certain other provisions that protect employees seeking relief for family members and other specific instances of protected leave continue to apply only to employers with 25 or more employees.

AB 2499 also requires **all** employers to provide written notice of these rights (1) to new hires; (2) to all employees annually, upon request; and (3) whenever the employer becomes aware that an employee or their family member has been victimized. However, notice is not required until the Civil Rights Department develops a new form entitled “Survivors of Violence and Family Members of Victims Right to Leave and Accommodations.” The law requires that the form be developed no later than July 1, 2025.

**Action items:** Employers should update their policies to comply with the new requirements, prepare and distribute paperwork that notifies employees of their rights under the new provisions, and monitor the Civil Rights Department website for when it publishes the new form that may be used to comply with the notice requirements.

Driver’s License Discrimination: [SB 1100](#)

**Effective date:** January 1, 2025

**Summary:** SB 1100 makes it an unlawful employment practice for an employer “to include a statement in a job advertisement, posting, application, or other material that an applicant must have a driver’s license” unless (1) the employer reasonably expects driving to be one of the job functions for the position and (2) the employer reasonably believes that using an alternative form of transportation would not be comparable in travel time or cost to the employer.

**Action item:** Employers should review job applications, job postings, job descriptions, handbooks, and standalone policies to ensure compliance.

Workplace Discrimination Laws—Local Enforcement: [SB 1340](#)

**Effective date:** January 1, 2025

**Summary:** SB 1340 amends existing law to allow any political subdivision of the state to enforce local laws prohibiting discrimination in employment for any of the reasons proscribed by state law. Local enforcement cannot occur until after the Civil Rights Department has issued a right-sue-notice.

**Action item:** Employers should monitor local laws related to employment discrimination.

## **Employment—AI in the Workplace**

Digital Replicas in the Workplace: [AB 2602](#)

**Effective date:** January 1, 2025

**Summary:** As described [here](#), under AB 2602 (to be codified at Cal. Lab. Code §927), a provision in a contract between an individual and any other person for a performance of personal or professional services may be *unenforceable* (as to performances fixed on or after January 1, 2025, by a digital replica of the individual) under

certain circumstances.

## **Employment—Other**

**Captive Audience Meetings Ban:** [SB 399](#)

**Effective date:** January 1, 2025

**Summary:** SB 399 enacts the California Worker Freedom from Employment Intimidation Act (Act), which prohibits employers from subjecting or threatening to subject employees to discrimination, retaliation, termination, or any other adverse action for declining to attend an employer-sponsored meeting or declining to participate in, receive, or listen to any communications with the employer or its agents where the purpose is to communicate the employer’s opinion about religious or political matters, including meetings regarding union organization. Under certain circumstances, religious organizations, political parties, nonprofits and/or educational institutions are exempt from the Act. Further, the Act is not intended to prevent an employer from requiring employees to undergo training to comply with the employer’s legal obligations.

Employees who are working during the time of the meeting or event yet decline to attend must still be paid while the meeting is being held. Employers who violate the Act are liable for a civil penalty of five hundred dollars (\$500) per employee for each violation.

**Action item:** Employers should refrain from holding mandatory “captive audience” meetings and consider making meetings intended to educate employees on political, religious, and/or labor relations issues voluntary.

**Social Compliance Audits:** [AB 3234](#)

**Effective date:** January 1, 2025

**Summary:** AB 3234 imposes additional reporting requirements on employers who have voluntarily subjected their business to social compliance audits. “Social compliance audit” is defined in the bill as a voluntary, nongovernmental inspection of a business’s operations or practices to evaluate whether they comply with state and federal labor laws, including wage and hour laws, health and safety regulations, and child labor laws.

Businesses who conduct social compliance audits now must publish a report detailing the findings of the audit and post a clear and conspicuous link on their website to the report.

**Action item:** Businesses should assess whether they are subject to the new disclosure requirements and, if so, ensure that they are complying with the new reporting requirements.

**Disability Compensation and Paid Family Leave:** [AB 2123](#)

**Effective date:** January 1, 2025

**Summary:** AB 2123 amends existing law to prevent an employer from requiring employees to take up two weeks of earned but unused vacation leave prior to the employee’s initial receipt of paid family leave benefits. (This has previously been permitted).

**Action item:** Employers should update employee handbooks, vacation/paid time off policies and/or paid family leave policies to ensure compliance with the amendment to current law.

Labor Commissioner Whistleblower Postings: [AB 2299](#)

**Effective date:** January 1, 2025

**Summary:** AB 2299 requires the labor commissioner to develop a model list of employee rights and responsibilities under the whistleblower laws and specifies that employers who post the model list would be deemed in compliance with the law. The labor commissioner previously issued a sample notice of employees' rights and responsibilities under the whistleblower laws, but it included a disclaimer that the labor commissioner did not guarantee that the sample notice met the statutory requirements.

**Action item:** Starting January 1, 2025, employers will be required to prominently display the labor commissioner's updated model list in 14-point font with the number of the whistleblower hotline. Employers should monitor the [labor commissioner's website](#) for the updated posting.

Family Leave Mediation for Small Employers—Civil Rights Department's Mediation Program Continues: [AB 2011](#)

**Effective date:** January 1, 2025

**Summary:** Under existing law, the Civil Rights Department (CRD) established a small-employer family leave mediation pilot program for the resolution of alleged violations of family care and medical bereavement leave by employers with between five and 19 employees. The pilot program was set to be repealed on January 1, 2025. AB 2011 (1) extends operation of the mediation program indefinitely; (2) extends the mediation program to include reproductive loss leave; and (3) tolls the statute of limitations from the date the employee contacts the CRD's dispute resolution division until the mediation is complete or deemed unsuccessful.

**Action item:** Employers with between five and 19 employees should familiarize themselves with the CRD's mediation requirements relating to family leave and consider whether dispute resolution through the CRD's mediation program may be a useful means of resolving covered disputes without protracted litigation.

Workers' Compensation Legal Services Notice: [AB 1870](#)

**Effective date:** January 1, 2025

**Summary:** Existing law requires employers subject to the workers' compensation system to post a notice in a conspicuous location that contains information regarding to whom injuries should be reported, the rights of an employee to select and change a treating physician, and certain employee protections against discrimination. The notice must be easily readable and posted in location frequented by employees during the hours of the workday. AB 1870 expands the notice requirement to include information regarding an injured employee's ability to consult with a licensed attorney regarding their rights under workers' compensation laws.

**Action item:** Employers should post new notices with added information regarding an injured employee's ability to consult with a licensed attorney regarding their rights under workers' compensation laws.

Protections for Child Social Media Influencers: [AB 1880](#)

**Effective date:** January 1, 2025

**Summary:** AB 1880 amends existing law to include child social media influencers within provisions that require an employer of a child artistic employee to set aside 15% of the child’s gross earnings (or a greater percentage, if requested by the minor’s parent or guardian) in a Coogan Trust Account.

**Action item:** Employers should ensure that Coogan Trust Accounts are set up for child social media influencer employees.

Limitations on the City of Los Angeles Employee Relations Board and the Los Angeles County Employee Relations Committee’s Authority: [AB 2889](#)

**Effective date:** January 1, 2025

**Summary:** AB 2889 amends Section 3509 of the Government Code relating to local public employee relations in the city and county of Los Angeles. Existing law currently provides the Public Employment Relations Board (the Board) the power to investigate cases involving unlawful strikes and unfair labor practices and grants the employee relations commissions for the city and county of Los Angeles the authority to take action on cases involving unfair labor practices. AB 2889 helps further clarify the authority of the Board and the city and county of Los Angeles related to unlawful strikes and unfair labor practices. Specifically, in a case seeking to recover damages as a result of an unlawful strike, AB 2889 prohibits the City of Los Angeles Employee Relations Board and the Los Angeles County Employee Relations Commission from awarding strike-preparation expenses as damages or damages for costs, expenses, or revenue losses incurred during, or as a result of, an unlawful strike. Existing law already prohibits the Board from doing the same. Additionally, where an action involves the city or county of Los Angeles, AB 2889 provides exclusive initial jurisdiction to the Board over a request for injunctive relief seeking to enjoin organization by employees.

**Action item:** Los Angeles employers should understand the types of damages available in cases involving allegations of unfair labor practices or unlawful strikes.

## **Litigation—Including Employment**

Changes to Rules Governing Motion for Summary Judgment: [AB 2049](#)

**Effective date:** January 1, 2025

**Summary:** AB 2049 amends California Code of Civil Procedure section 437c by setting new statutory filing deadlines on motions for summary judgment. As amended, section 437c requires that moving papers be filed and served at least 81 days before the hearing on the motion (the prior deadline was at least 75 days before the hearing), opposition papers be filed and served at least 20 days before the hearing (as opposed to 14 days), and reply papers be filed and served at least 11 days before the hearing (as opposed to 5 days).

**Action item:** Counsel and their clients should ensure they are monitoring the new motion for summary judgment deadlines and plan to file accordingly.

## **Employment—Occupational Safety and Health**

Domestic Worker Occupational Safety and Health: [SB 1350](#)

**Effective date:** July 1, 2025

**Summary:** Existing law includes an exemption for household domestic workers for application of Cal/OSHA rules and regulations. This bill requires Cal/OSHA coverage for agency-based domestic workers. The bill extends Cal/OSHA protections for high-hazard domestic work, such as cleanup of fire-damaged or water-damaged structures or work that exposes an employee to highly hazardous substances, including lead, paint strippers, drain cleaners, and regulated carcinogens.

**Action item:** Companies who employ agency-based domestic workers or who contract for the services of agency-based domestic workers should consult with legal counsel regarding safety compliance concerns.

## **Independent Contractors**

**Independent Contractors (Newspaper Distributors and Newspaper Carriers):** [AB 244](#)

**Summary:** Existing law includes an exemption for newspaper distributors and newspaper carriers from California's rigid "ABC" test for independent contractors. This exemption was set to expire on January 1, 2025. AB 244 extends the exemption until January 1, 2030.

**Action item:** Companies contracting with newspaper distributors or newspaper carriers should consult with legal counsel regarding the independent contractor/employee determination and review applicable contracts for compliance.

**Freelance Worker Protection Act:** [SB 988](#)

**Effective date:** January 1, 2025

**Summary:** SB 988 adds sections to the Business & Professions Code (section 18100 *et. seq.*), which imposes new requirements on contracts between a hiring party and a freelancer. A freelance worker is a person or organization composed of no more than one person, as specified, who is hired or retained as a bona fide independent contractor by the hiring party to provide *professional services* in exchange for an amount equal to or greater than \$250. "Professional services" has the same meaning as used in Labor Code Section [2778\(b\)\(2\)](#).

Under SB 988, an agreement between a hiring party and a freelance worker must be in writing and include (1) the names and addresses of both parties; (2) an itemized list of services, their value, and the compensation method; (3) payment due dates, or mechanisms for determining them; and (4) due dates for the freelance worker to report completed services to ensure timely payment. Once a freelance worker has commenced performance of services under a contract, a hiring entity shall not, as a condition of timely payment, require that the freelance worker either (1) accept less compensation or (2) provide more services or grant more intellectual property rights than originally agreed to in the contract. Aside from the new requirements for the contents of the agreement between a hiring party and a freelancer, SB 988 also prohibits hiring parties from discriminating or taking any adverse action against a freelancer from, among other things, asserting rights protected by the new law. The new law also requires that the hiring party retain the contract with the freelance worker for four years.

In addition, SB 988 provides a private right of action to freelancers for violations of section 18100 *et. seq.* and allows freelancers to recover attorneys' fees and costs, injunctive relief, and damages. In certain circumstances, double damages for unpaid amounts under the parties' agreement can apply.

**Action item:** Companies who utilize freelance workers should ensure their written agreements with freelancers comply with the requirements of SB 988.



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